

EXHIBIT 1
PART 2 OF 2

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1 DEPUTY COMMISSIONER RODRIGUEZ: I believe
2 that's in the probation officer's report. Did you
3 quote that, Commissioner Angele?

4 PRESIDING COMMISSIONER ANGELE: No.

5 ATTORNEY FOX: I don't believe it's stated
6 there.

7 DEPUTY COMMISSIONER RODRIGUEZ: Okay, I was
8 looking at the prisoner's version. And what I'm
9 looking at is the current Board report, April
10 2002, and that's on the first page, (inaudible)
11 addressing that --- You explained that they had
12 the gun for protection in case someone else had to
13 have a weapon, correct?

14 ATTORNEY FOX: Once again ---

15 DEPUTY COMMISSIONER RODRIGUEZ: Excuse me,
16 counsel, I'll let you address that. Ngo stated
17 that he did not see the gun until he was in the
18 vehicle, it was located under the passenger seat,
19 correct?

20 INMATE NGO: (Inaudible.)

21 DEPUTY COMMISSIONER RODRIGUEZ: And that's
22 the story you're staying ---

23 INMATE NGO: It's a true story.

24 DEPUTY COMMISSIONER RODRIGUEZ: And he's
25 corrected and we're satisfied ---

26 ATTORNEY FOX: And I believe it's
27 consistently stated that way throughout the

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1 probation report as well, and the defendant's
2 statement and also a statement that was given by
3 one of the detectives involved in the
4 investigation.

5 DEPUTY COMMISSIONER RODRIGUEZ: All right.
6 Do you agree with everything I've read up to this
7 point, as far as your program?

8 INMATE NGO: I still have a, I have a
9 certificate in STD and AIDS too.

10 DEPUTY COMMISSIONER RODRIGUEZ: Okay, I
11 don't think I have copies of those. Do you have
12 copies of them?

13 INMATE NGO: Yes, Sir.

14 DEPUTY COMMISSIONER RODRIGUEZ: I went
15 through all the certificates you have here that
16 they provided us, which I confirmed, which are in
17 the ---

18 INMATE NGO: Hepatitis and tuberculosis.

19 DEPUTY COMMISSIONER RODRIGUEZ: Well I
20 addressed those already.

21 INMATE NGO: Sexually transmitted disease---

22 DEPUTY COMMISSIONER RODRIGUEZ: I addressed
23 that too. That was in 1999, correct, right there
24 at the bottom?

25 ATTORNEY FOX: Well, one is in 2000, the
26 STD's.

27 DEPUTY COMMISSIONER RODRIGUEZ: Okay. That

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1 was the sexually transmitted disease, right.

2 ATTORNEY FOX: And on the back there's
3 another one in 2000.

4 DEPUTY COMMISSIONER RODRIGUEZ: Right, and
5 then HIV. I may have said the wrong date, but I
6 did address both these certificates.

7 ATTORNEY FOX: The other two, tuberculosis
8 and hepatitis were (inaudible).

9 DEPUTY COMMISSIONER RODRIGUEZ: Correct,
10 okay. So do you agree with everything else?

11 INMATE NGO: Yes, Sir.

12 DEPUTY COMMISSIONER RODRIGUEZ: Okay. As
13 far as disciplinary history, you have received no
14 CDC 115's, either administrative or serious since
15 reception. And you've only received a total of
16 two 128(a) counseling chronos. The first one was
17 April 1st, 1997, for failure to respond to medical
18 ducat. And then the last one was on February
19 11th, 2000, for covering your windows with a
20 towel. Trying to keep the light out, huh?

21 INMATE NGO: Actually, cold Sir.

22 DEPUTY COMMISSIONER RODRIGUEZ: Cold. In
23 going through your counselor's recommendation,
24 that's from the current Board report dated April
25 2002. The author of this report is the initial M.
26 Rubio, R-U-B-I-O, Correctional Counselor I here at
27 Soledad state prison. Going to page three under

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1 the heading of Summary, it says considering the
2 commitment offense, minimal prior arrest record
3 and prison adjustment, the writer believes Ngo
4 would probably pose a moderate to low degree of
5 threat to the public at this time if released from
6 prison. Going to the psych report, there's two
7 reports I'll be addressing. The first one is
8 dated December 27th, 1996. It's a three page,
9 three. It's completed at California State Prison,
10 Lancaster. The author of that report is the
11 initial C. Schroeder, S-C-H-R-O-E-D-E-R, Staff
12 Psychologist. I'm not going to read that report
13 in it's entirety, but I will address areas of that
14 report. Going to page two, under Present
15 Condition, it says the remorse he expresses is
16 sincere. He is synonymous with inmate Ngo. He
17 shows much (inaudible) and self-incrimination for
18 the crime. In hindsight he sees that he perhaps
19 could have stopped the incident and now has great
20 empathy and remorse for the family of the victim.
21 Under Mental Status and Diagnosis, Axis I: no
22 diagnosis or condition. Axis II: no diagnosis.
23 Axis III: none. Going to page three, Axis IV:
24 psychosocial stressors, incarceration. Axis V:
25 Global Assessment of Functioning score, that's
26 your GAF score is 75. Under Conclusions and
27 Recommendations, Mr. Ngo's history of depression

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1 and suicide attempts may have contributed to his
2 state of mind and poor judgment during the time of
3 the crime. There are no records of any mental
4 health treatment during incarceration and Mr. Ngo
5 is no longer depressed. Going to the last psych
6 report, and that is a seven-page report completed
7 here at Soledad state prison. The date of that
8 report is April, excuse me, January 23rd, 2002.
9 The author of that report is the initial C.
10 Saindon, capital-S-A-I-N-D-O-N, Staff
11 Psychologist. Under, let's see, going to page
12 four, under heading Current Diagnostic
13 Impressions, Axis I: no contributory clinical
14 disorder. Axis II: deferred. Axis III: no
15 contributory physical disorder. Axis IV:
16 long-term incarceration. Axis V: Global
17 Assessment of Functioning score, your GAF score is
18 90, noting that it had gone up considerably from
19 75 from the first report that I addressed in 1996.
20 Ninety is a very good score. Going to page five
21 under Assessment of Dangerousness, based upon his
22 complete lack of disciplinary actions while
23 incarcerated, his insight into the negative
24 aspects of gang involvement and his remorse for
25 his actions, his violence potential within a
26 controlled setting is estimated to be below
27 average relative to this Level II inmate

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1 population. If released to the community, his
2 violence potential is estimated to be less than
3 the average citizen in the community given his
4 insight, his demonstrated ability to stay out of
5 trouble, his successful development of plans upon
6 release, and the support of his family. At this
7 time, I'll return to the Chair.

8 PRESIDING COMMISSIONER ANGELE: Thank you.
9 Do you know what the term mad dogging means?

10 INMATE NGO: Yes, Sir.

11 PRESIDING COMMISSIONER ANGELE: What does
12 that mean to you?

13 INMATE NGO: Back then it was dirty looks.

14 PRESIDING COMMISSIONER ANGELE: You
15 indicated that you first saw the gun in the car.

16 INMATE NGO: Yes, Sir.

17 PRESIDING COMMISSIONER ANGELE: And then you
18 were driving around and just happened come upon
19 Mr. Gonzales.

20 INMATE NGO: No, Sir. We met Mr. Gonzales
21 at McDonald's first.

22 PRESIDING COMMISSIONER ANGELE: I understand
23 that. I'm talking about the second time.

24 INMATE NGO: The second time, what happened
25 was, when we came back me and (inaudible) went to
26 confront Mr. Gonzales and his friend. We were
27 going to get into a fistfight. When the fistfight

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1 started, we were fighting one another, we knocked
2 Mr. Gonzales down. And after that, my crime
3 partner came and while we was beating him up
4 (inaudible) Muhamed was hitting him with a gun.
5 Somehow it shot, it went off, the gun went off and
6 shot him. The first round probably missed him,
7 but the second round hit him.

8 PRESIDING COMMISSIONER ANGELE: So you were
9 actually looking for him?

10 INMATE NGO: Looking for ---

11 PRESIDING COMMISSIONER ANGELE:
12 Mr. Gonzales.

13 INMATE NGO: Yes, we were looking for him to
14 fight.

15 PRESIDING COMMISSIONER ANGELE: Weren't you
16 waiting there for him to get out of school?

17 INMATE NGO: We were waiting for him after
18 school.

19 PRESIDING COMMISSIONER ANGELE: Okay. Also,
20 you know, a little trouble by some (inaudible)
21 problems. Back in December '90, you had a problem
22 in school where you jumped somebody else. Do you
23 recall that?

24 INMATE NGO: It was not a jump. I got in a
25 fight with another individual.

26 PRESIDING COMMISSIONER ANGELE: Yeah, but
27 you had three guys with you and they all jumped in

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1 on it.

2 INMATE NGO: Yes, Sir, they were my friends,
3 they back me up.

4 PRESIDING COMMISSIONER ANGELE: They backed
5 you up. You against one guy. You knocked him
6 down.

7 INMATE NGO: I beat him up, yes, Sir.

8 PRESIDING COMMISSIONER ANGELE: And then
9 three guys backed you up and you all jumped him.
10 How do you figure that backing you up, you didn't
11 sound like you needed a back up at all?

12 INMATE NGO: I have no control over their
13 actions, Sir.

14 PRESIDING COMMISSIONER ANGELE: How about
15 the time you were in a vehicle and found three
16 purses, do you remember that?

17 INMATE NGO: No, Sir.

18 PRESIDING COMMISSIONER ANGELE: You don't
19 remember that? This is in the POR, page 11, line
20 seven, (inaudible) automobile during a traffic
21 stop three women's purses were found in the
22 vehicle in which (inaudible) Ngo was the sole
23 occupant. Indicated you did not know who they
24 belonged to, that's when they found the rock
25 cocaine.

26 INMATE NGO: Oh, that's my mom's car ---

27 DEPUTY COMMISSIONER RODRIGUEZ: I'd like to

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1 turn the tape over, one moment.

2 [Thereupon, the tape was turned over.]

3 DEPUTY COMMISSIONER RODRIGUEZ: Side two,
4 back on record.

5 PRESIDING COMMISSIONER ANGELE: So that was
6 your mother's car?

7 INMATE NGO: Uh-hmm. It was my mother's car
8 when I was arrested, Sir. If there was a purse,
9 it must belong to my mom.

10 PRESIDING COMMISSIONER ANGELE: Okay. Then
11 you indicated the car was searched for no reason.

12 INMATE NGO: At first, yes. But when they
13 asked me for consent, I gave it to them.

14 PRESIDING COMMISSIONER ANGELE: All right.
15 But you do understand a male driving in a vehicle
16 with three purses in the car would be pretty
17 suspicious to me. I'd think maybe it was a purse-
18 snatcher. (Inaudible) plenty of probable cause.
19 But they asked you ---

20 INMATE NGO: Yeah.

21 PRESIDING COMMISSIONER ANGELE: And you gave
22 consent and inside one of the purses they found
23 the rock cocaine. I found in a couple of spots
24 the gun was given to one of your crime partners by
25 somebody at an arcade. Do you recall that
26 statement at all?

27 INMATE NGO: It was brought up in trial,

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1 Sir, but like I said before, the first time I ever
2 seen the gun was when I got back into the car.

3 PRESIDING COMMISSIONER ANGELE: Okay, let me
4 ask you this, did you happen to go to the arcade
5 prior to you first seeing the gun?

6 INMATE NGO: Yeah, I was playing arcade, but
7 I went to the restaurant. I told them in court
8 that I was at a restaurant, a Hispanic restaurant
9 eating when this ---

10 PRESIDING COMMISSIONER ANGELE: Okay. So
11 can we assume without taking anything out of it
12 that isn't, it's a possibility that somebody did
13 get the gun at the arcade and put it in the car
14 and you just didn't see it.

15 INMATE NGO: Very.

16 PRESIDING COMMISSIONER ANGELE: What I'm
17 trying to establish is that you were at the arcade
18 before you got in the car and saw the gun?

19 INMATE NGO: Yes.

20 PRESIDING COMMISSIONER ANGELE: And the
21 first place you saw it was in the car.

22 INMATE NGO: Exactly.

23 PRESIDING COMMISSIONER ANGELE: All right,
24 any questions, Commissioner Rodriguez?

25 DEPUTY COMMISSIONER RODRIGUEZ: None at this
26 time.

27 PRESIDING COMMISSIONER ANGELE: Any

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1 questions from the District Attorney?

2 DEPUTY DISTRICT ATTORNEY LAIRD: Yes, just a
3 few. And I'm referring to the P and S, the
4 Probation and Sentencing report.

5 PRESIDING COMMISSIONER ANGELE: One second,
6 (inaudible) you answer the questions. The
7 questions will be asked by the District Attorney
8 through the Panel and your statements are to be
9 directed to this side of the table.

10 INMATE NGO: Yes.

11 DEPUTY DISTRICT ATTORNEY LAIRD: Would you
12 like me to read what's in the probation report?
13 It's just, it's regarding the trial deputy's
14 statement in the report.

15 PRESIDING COMMISSIONER ANGELE: Is it a
16 question or what do you intend to do with it?

17 DEPUTY DISTRICT ATTORNEY LAIRD: The
18 question is I want to know if the inmate believes
19 that is an accurate statement, sentence by
20 sentence. And I'm talking about page nine of the
21 Probation and Sentencing report, starting with
22 line 14, that entire paragraph, 14 to 21, which
23 begins with in a telephone conversation with the
24 prosecuting attorney Robin Park. She's the Deputy
25 District Attorney that took the case to trial and
26 tried (inaudible) case. And those are her
27 comments. And I was wondering if they, Mr. Ngo,

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1 felt that those were accurate comments, and if
2 they are not accurate, how so.

3 ATTORNEY FOX: I think we need to go through
4 each one point by point, otherwise it's ---

5 DEPUTY DISTRICT ATTORNEY LAIRD: Right.

6 PRESIDING COMMISSIONER ANGELE: Well, let me
7 go through it. There's a statement that the
8 prosecuting attorney made regarding the offenses
9 being a very vicious attack. After the
10 confrontation at the fast food restaurant, the
11 inmate, along with No Muhamed, drove by the school
12 and planned the revenge. They subsequently
13 obtained the weapon, loaded it, and drove back to
14 the area of Fullerton High School. They were
15 lying in wait for the victim to get out of school.
16 This occurred at 3:02 p.m., the victim was killed
17 at 3:07 p.m. Is that what happened?

18 INMATE NGO: Yes, Sir.

19 PRESIDING COMMISSIONER ANGELE: Now did you
20 understand everything I just said?

21 INMATE NGO: When you say lying in wait, do
22 you mean I was waiting for him (inaudible).

23 PRESIDING COMMISSIONER ANGELE: Uh-hmm.

24 Well no there's a portion that I think is
25 extremely important in today's hearing. It says
26 after the confrontation at the fast food
27 restaurant, the defendant, which is you, and No

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1 Muhamed, drove by the school and planned the
2 revenge. They, which would be you and Muhamed,
3 subsequently obtained a weapon, loaded it, and
4 then drove back to the area of Fullerton High
5 School.

6 INMATE NGO: That's wrong. It wasn't just
7 me and No Muhamed. There was five of us.

8 PRESIDING COMMISSIONER ANGELE: Okay.

9 INMATE NGO: So, and we didn't load the
10 weapon. I know I didn't (inaudible). I didn't
11 see the weapon until I was in the car. So that
12 statement has to be wrong.

13 PRESIDING COMMISSIONER ANGELE: All right.
14 But you are aware of the term lying in wait. Do
15 you know what that means?

16 INMATE NGO: That we were waiting.

17 PRESIDING COMMISSIONER ANGELE: Yeah, you
18 were parked by the school waiting for him to get
19 out of school.

20 INMATE NGO: Yeah.

21 PRESIDING COMMISSIONER ANGELE: Is that
22 basically what happened?

23 INMATE NGO: That's true.

24 PRESIDING COMMISSIONER ANGELE: Did that
25 answer your question?

26 DEPUTY DISTRICT ATTORNEY LAIRD: Yes. Just
27 a follow up question. Did Mr. Ngo realize that

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1 the gun in the car was loaded when they were going
2 back to the school to find victim Gonzales?

3 PRESIDING COMMISSIONER ANGELE: When you saw
4 the gun or was there any conversation to lead you
5 to believe the gun was loaded?

6 INMATE NGO: They led me to believe, I think
7 it was loaded because, they say that I told the
8 police that they say, you know, use it for
9 protection. So I figured it probably is loaded.
10 But my lack of judgment that day ---

11 DEPUTY DISTRICT ATTORNEY LAIRD: And then
12 was, at the time that they were waiting for the
13 victim, this is addressed to the parole board, at
14 the time the suspects were waiting for the victim,
15 was victim Alex Gonzales by himself?

16 INMATE NGO: No, he wasn't. There was two
17 of them, Angel Gonzales and his friend. That's
18 when No Muhamed confronted Mr. Gonzales and I
19 confronted his other friend. I followed the other
20 guy, I don't know his name, and No Muhamed was
21 fighting with Mr. Gonzales. And after that, his
22 friend ran away and I helped No out.

23 PRESIDING COMMISSIONER ANGELE: And how
24 about the rest of your crime partners?

25 INMATE NGO: They didn't come until later,
26 until --- it happened so fast. Me and No was
27 fighting we didn't know until the first time the

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1 gun went off and that's when everybody just
2 stopped and we started running away. After that,
3 you know, when I heard the first shot, I ran.

4 **PRESIDING COMMISSIONER ANGELE:** Okay.

5 **DEPUTY DISTRICT ATTORNEY LAIRD:** And, again,
6 this is directed to the parole board. Did Mr. Ngo
7 realize that one of his group would get out of the
8 car to confront Alex Gonzales, the victim who
9 died, with that firearm that was in the car?

10 **PRESIDING COMMISSIONER ANGELE:** Let's see if
11 I understand that clearly. Did you have knowledge
12 that somebody in the car was going to confront
13 Mr. Gonzales with that firearm?

14 **INMATE NGO:** No, Sir. Not at all.

15 **DEPUTY DISTRICT ATTORNEY LAIRD:** Did Mr. Ngo
16 nevertheless realize that somebody was going to be
17 taking that gun out of the car into the
18 confrontation?

19 **PRESIDING COMMISSIONER ANGELE:** Do you
20 understand that question?

21 **INMATE NGO:** Yes. My understanding is,
22 that's the argument between No, Mr. Muhamed, I
23 asked why did you guys bring a gun, you know,
24 without telling me, you know, when I first saw it
25 under the seat. That's when they tell me it's
26 only for protection. My understanding was it was
27 only going to be used if the other group have

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1 weapon on them; otherwise, it was supposed to be
2 in the car. Because when I agreed to go into
3 fistfight, that's all I agreed upon, was to have a
4 fistfight. I never knew that someone was going to
5 take it out and shoot him; otherwise, I probably
6 wouldn't be there. But back then I was trying to
7 get my life back straight, you know. I'm sorry,
8 but ---

9 **PRESIDING COMMISSIONER ANGELE:** Take your
10 time.

11 **INMATE NGO:** I'm sorry that Mr. Gonzales,
12 you know, died, but I never wanted that to happen.
13 It was not my intention. I thought it was just
14 for fight. (Inaudible.)

15 **PRESIDING COMMISSIONER ANGELE:** Let's take a
16 break (inaudible).

17 [Off the record.]

18 **INMATE NGO:** Thank you. I know there's
19 nothing I can say or do at this point to bring
20 back Mr. Gonzales. I know his family is probably
21 going through a lot of pain, but I was young and I
22 was ignorant, naïve. I made bad judgment.
23 There's nothing I can say to bring him back, Sir.
24 If sorry would help, but hopefully one day they'll
25 find it in their heart to forgive me.

26 **PRESIDING COMMISSIONER ANGELE:** Any
27 questions?

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1 DEPUTY DISTRICT ATTORNEY LAIRD: Yes. I
2 appreciate that answer from Mr. Ngo. I have just
3 a couple of follow up questions to the Board
4 regarding the Tiger Mafia. Because it is printed
5 in several pieces of documentation including the
6 probation report as well as elsewhere that at
7 about the time of the murder he was affiliated
8 with a group called the Tiger Mafia. And I'm
9 aware and I can point to a picture here on the
10 table that dealt with search warrants and items
11 that were obtained and seized during the time of
12 this crime. And I've seen and become aware of
13 several drawings, that are drawings, handwritten
14 drawings of a tiger, which I'm making the
15 assumption refers to the Tiger Mafia. And I'm
16 just trying to get a clarification of what that
17 group was and why the inmate put the tattoo on his
18 arm for TM or Tiger Mafia.

19 ATTORNEY FOX: I'd like to pose an
20 objection to the extent that the District
21 Attorney was testifying. If there is a
22 question regarding the Tiger Mafia, I think it
23 might be asked as a direct question rather
24 than a litany of what the District Attorney
25 has seen.

26 PRESIDING COMMISSIONER ANGELE: I'll
27 overrule your objection. I don't believe he was

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1 testifying. I believe the question has already
2 been asked and answered. The Tiger Mafia,
3 according to the inmate, was made up and the
4 initials on his arm stood for the initials of an
5 ex-girlfriend. Do you still state that?

6 **INMATE NGO:** Yes, Sir.

7 **PRESIDING COMMISSIONER ANGELE:** So there
8 never was a group called the Tiger Mafia?

9 **INMATE NGO:** No. It's just a made-up name.

10 **DEPUTY COMMISSIONER RODRIGUEZ:** Are those
11 drawings from ---

12 **DEPUTY DISTRICT ATTORNEY LAIRD:** I do not
13 know. I do not know. I just used it as a purpose
14 of illustration just because I've, in reviewing
15 the file I've seen some pictures of tigers. I see
16 a tattoo. So I'm just asking by illustrating what
17 I've seen if there was any connection to the Tiger
18 Mafia.

19 **INMATE NGO:** If you want clarification what
20 the tattoo of the tiger is, all the Fullerton Boyz
21 has a tiger on his chest. It's not because of the
22 Tiger Mafia. It's Fullerton Boyz has a tiger on
23 his chest, all of us.

24 **DEPUTY DISTRICT ATTORNEY LAIRD:** Thank you.

25 **PRESIDING COMMISSIONER ANGELE:** Anything
26 further?

27 **DEPUTY DISTRICT ATTORNEY LAIRD:** Nothing

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1 further.

2 PRESIDING COMMISSIONER ANGELE: Ms. Fox,
3 questions of your client.

4 ATTORNEY FOX: Just briefly. When you were
5 found in possession of cocaine, when the police
6 officer stopped you.

7 INMATE NGO: Yes.

8 ATTORNEY FOX: They found the cocaine in a
9 purse, right?

10 INMATE NGO: I'm not sure where they found
11 it. I think it was underneath the seat,
12 underneath the seat when they found it. It wasn't
13 in no purse at all.

14 ATTORNEY FOX: Okay, that was my question.
15 If it was in the purse how did it get there. But
16 it's your testimony you didn't put it there?

17 INMATE NGO: No, if anything, if I remember
18 correctly I put it under the seat. If it also
19 found it'd be under the seat.

20 ATTORNEY FOX: So it wasn't your mother's
21 cocaine?

22 INMATE NGO: No. It was mine. I bought it.

23 ATTORNEY FOX: Okay, I have no further
24 questions.

25 PRESIDING COMMISSIONER ANGELE: Okay, can we
26 go into closing please, from the District
27 Attorney, Mr. Laird?

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1 DEPUTY DISTRICT ATTORNEY LAIRD: Yes, I
2 have, I've been prosecuting gang cases in my
3 office for approximately five years. I know Robin
4 Parks, she's a colleague of mine. I have tried a
5 case just like a case like this in terms that the
6 type of theory that is presented in terms of a
7 gang, group attack that results in a death. I
8 would indicate that Mr. (inaudible) who I also
9 know is, or who was the Public Defender at the
10 time, and is still a public defender representing
11 his client, basically is not talking about any
12 sort of novel or unique theory that is applied in
13 Orange County in terms of finding the defendant
14 guilty of murder by virtue of being involved in
15 gang related activity and aiding and abetting in a
16 fight on a victim that results in a murder. I
17 would note that the seriousness of the crime,
18 basically is well spoken for in the probation
19 report by Robin Park. It's also well spoken for
20 by the fact that a jury did return a first degree
21 murder verdict on this case and that there was a
22 subsequent plea apparently between the District
23 Attorney in exchange for not raising any appellate
24 rights on the case. It is my opinion that based
25 on, well I'll just withdraw, I won't make any
26 comments regarding the nature of why that plea
27 took place because I personally have not been able

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1 to find the precise material that refers to that.
2 However, I would just point to the gravity of the
3 offense in urging what we have urged in our
4 May 3rd, 2002, letter in that we believe that at
5 this point Mr. Ngo is not suitable for parole.
6 And it's largely based on the heinousness of the
7 crime in that it involved an extremely vulnerable
8 victim at the time of the group attack. It
9 involved a picture, an accurate picture of gang
10 subculture with respect to the roles of guns and
11 how guns are brought to a conflict for backup.
12 And that in the gang subculture any type of
13 escalation by rival gangs is basically a form of
14 disrespect which must be answered to. And that by
15 virtue of the victim answering with blows to
16 Mr. Ngo at the time, back in 1990, literally
17 1990's, it was just a right condition for an
18 escalation of a conflict wherein the gun would be
19 used. The People have a concern also regarding
20 the modus operandi of Asian gangs in this state in
21 that their activity is not as overt in the
22 community. They appear to be less overt regarding
23 their gang affiliation and it's hard to look at
24 the inmate essentially with a crystal ball at this
25 time. We're forced to look back at past conduct
26 that has happened which I've described above.
27 It's my belief that the inmate's account about the

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1 gun and the use of the gun at the crime is
2 somewhat unreasonable in that he indicates that
3 the reason they had a gun was for protection and
4 they were laying in wait or lying in wait for the
5 victim to come out of school. At that time, they
6 knew they had had a conflict earlier at the
7 McDonald's. They didn't know whether the victim
8 was armed or not or whether the victim's cohort
9 was armed or not. And it seems unreasonable that
10 this defendant would not know that the gun was
11 taken out of the car in concert with the rest of
12 the suspects who ended up attacking victim
13 Gonzales. And we just believe based on all the
14 psychiatric reports and based on the limited
15 contact that the experts have had with the inmate
16 that there needs to be a longer test of time
17 before this inmate is found suitable for a parole
18 date and I thank you very much for your time.

19 **PRESIDING COMMISSIONER ANGELE:** Thank you.
20 Ms. Fox.

21 **ATTORNEY FOX:** Thank you. I respectfully
22 disagree with my colleague from Orange County. I
23 think it would be appropriate to set a date for
24 Mr. Ngo today. Before the Panel is a man who has
25 matured in the prison system. Today he displayed
26 genuine remorse, which has been a hallmark of his
27 existence in the Department of Corrections. Going

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1 back to the probation report, which was used for
2 the Statement of Facts over my objection.
3 Consistently throughout there, that report Mr. Ngo
4 is cited for having stated that he did not know
5 that the weapon is in the car for any long period
6 of time before it was used and today he spoke what
7 he thought the use to which that weapon would be
8 put. It would be used in self-defense. Hindsight
9 is 20/20. He can't go back and change what
10 happened. Facts is facts. And I think the fact
11 that he stands convicted of a murder two, not
12 murder one, is a significant finding. Turning to
13 his institutional adjustment, he has minimal
14 disciplinary history, and that's consistent with
15 his personality prior to the time he came into the
16 Department of Corrections with this one very
17 tragic situation. He has improved himself to the
18 extent that he's able to within the Department of
19 Corrections having achieved two completed
20 vocations, sustained attendance at AA, good work
21 reports, and he continues to enjoy a sustained
22 excellent family support system out there. In the
23 psych report it's important to note that he does
24 have a Global Assessment score of 90, which would
25 let us know that he is able to cope with life on
26 the streets in a non-destructive manner. And he's
27 done that and it's demonstrable or has been

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1 demonstrable since he's been incarcerated. I
2 believe both psych reports accurately describe
3 Mr. Ngo, and he is ready for parole. The plans
4 are excellent. And if the Board is disinclined to
5 find him suitable for parole today, I'd suggest a
6 one or two year denial to allow him time to get
7 into the Impact program and pursue any other
8 self-help and anger management programs that the
9 Board would find useful. So we'll submit based on
10 that unless Mr. Ngo has something he'd like to
11 say.

12 **PRESIDING COMMISSIONER ANGELE:** Thank you.
13 Mr. Ngo, now it's your turn to make a statement to
14 the Panel regarding your parole suitability.
15 Before we do that, I just want to add one thing.
16 When I read the Statement of Facts from the
17 probationary report when we first started the
18 hearing, you indicated to me that that was the way
19 it happened?

20 **INMATE NGO:** Yes.

21 **PRESIDING COMMISSIONER ANGELE:** Thank you.
22 All right, do you need to make a statement or we
23 can end this hearing on what your attorney has
24 said on your behalf.

25 **INMATE NGO:** I just say, honestly I'm sorry
26 for what I've done. I accept the fact that, you
27 know, because of my ignorance that a human life

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1 was lost. And, you know, I made a mistake.
2 There's nothing I want more than to change what
3 happened. I'm sorry, but I just don't know what I
4 can say anymore. That's all I guess.

5 **PRESIDING COMMISSIONER ANGELE:** Okay. Thank
6 you for your comments. We'll recess for
7 deliberations.

8 **R E C E S S**

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CALIFORNIA BOARD OF PRISON TERMS

D E C I S I O N

DEPUTY COMMISSIONER RODRIGUEZ: We're back on record, all parties are present.

PRESIDING COMMISSIONER ANGELE: In the matter of Sieu Ngo, that's N-G-O. Mr. Ngo, the Panel has reviewed all information received from the public and relied on the following circumstances in concluding that you are not suitable for parole and would pose an unreasonable risk of danger to society or a threat to public safety if released from prison. The offense was carried out in an exceptionally cruel, callous, violent and brutal manner. The offense was carried out in a manner which demonstrates an exceptionally callous disregard for human suffering and life. And the motive for the crime was inexplicable or very trivial in relation to the offense. These conclusions were drawn from the Statement of Facts wherein the inmate and his crime partners, after altercation with the victim, armed themselves with a weapon, went to the high school where the victim, one 15 year old Angel Gonzales went to school, and waited for him to get out of school. The inmate and one of his crime partners then approached Mr. Gonzales and a friend

SIEU PHONG NGO J-07024 DECISION PAGE 1 05/13/02

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1 of his, each getting in a fight with one of them.
2 At which time both the inmate and his other crime
3 partner, both got into a fight with Mr. Gonzales.
4 At the same time three other crime partners
5 jumping in and attacking Mr. Gonzales who was shot
6 and killed after he was on the ground, by one of
7 the other crime partners. The prisoner has on a
8 previous occasion has attempted to inflict injury
9 upon a victim. This has to do with another fight
10 in which he was involved in a one-on-one, which he
11 got the better of the fight and knocked the victim
12 down and then his crime partners jumped in and all
13 started beating the victim. The inmate does have
14 an escalating pattern of criminal conduct, albeit
15 minor. However, it does include the possession of
16 rock cocaine. The inmate has received during his
17 incarceration no 115 disciplinary reports, which
18 is a very positive step. He's received two 128(a)
19 counseling chronos. 4/1/97, failure to respond to
20 a medical ducat and 2/11/00, for window coverings.
21 Psychological evaluation dated 1/23/02, by initial
22 C. Saindon, S-A-I-N-D-O-N, would indicate that the
23 inmate, or would be favorable to the inmate. The
24 inmate does have parole plans. He does have
25 residential plans in the last county of legal
26 residence, also in Los Angeles County. And does
27 SIEU PHONG NGO J-07024 DECISION PAGE 2 05/13/02

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1 have acceptable job offers. The hearing Panel
2 notes that responses to 3042 notices indicate
3 opposition to a finding of parole suitability,
4 specifically the District Attorney of Orange
5 County. The Panel makes the following findings:
6 that the inmate needs additional time in order to
7 fully understand and deal with the causation
8 factors that led to the commitment of the life
9 crime. Until progress is made, the prisoner
10 continues to be unpredictable and a threat to
11 others. Nevertheless, he should be commended for
12 his participation in NA, for his participation in
13 the 12-steps, for his completing vocational auto
14 upholstery and auto refinishing. In addition, to
15 his being 115-free during his incarceration and
16 for completing the Keys to Fatherhood a
17 salesmanship course, and the tuberculosis and
18 hepatitis courses. However, these positive
19 aspects of his behavior do not outweigh the
20 factors of unsuitability. In a separate decision,
21 the hearing Panel finds that it is not reasonable
22 to expect that parole would be granted at a
23 hearing during the following two years. The
24 specific reasons for the findings are as follows:
25 the prisoner committed the offense in an
26 exceptionally cruel, callous, violent, brutal
27 SIEU PHONG NGO J-07024 DECISION PAGE 3 05/13/02

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1 manner. Specifically, he and his crime partners,
2 after one of his crime partners was involved in a
3 fight with the victim, left, armed themselves with
4 a weapon, and then went back to the school area
5 where the victim had gone to school, waited for
6 the victim to get out of school. The inmate and
7 one of his crime partners then got involved in a
8 one-on-one fight with the victim and one of his
9 friends. After which, the inmate and his crime
10 partner both began fighting with the victim. They
11 were then joined in by two other individuals who
12 were beating the victim, knocked to the ground.
13 One of the crime partners shot and killed the
14 victim, one Angel Gonzales, age 15. The offense
15 was carried out in an exceptionally cruel and
16 callous manner. The motive for the crime was
17 inexplicable or very trivial in relation to the
18 offense. The prisoner had been involved in
19 previous violent behaviors, which included once
20 again, a fistfight with an individual who he got
21 the better of and knocked down and after which
22 time three of his crime partners and him all began
23 continuing to strike the victim. The correctional
24 counselor's report dated (inaudible) 2002, by
25 initial M. Rubio, R-U-B-I-O, indicates a degree of
26 threat as moderate if released to the public.

27 SIEU PHONG NGO J-07024 DECISION PAGE 4 05/13/02

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1 Therefore, a longer period of observation and
2 evaluation of the prisoner is required before the
3 Board should find the prisoner is suitable for
4 parole. The Panel recommends that inmate remain
5 disciplinary-free. If available, upgrade any way
6 you can, vocation, education. If available,
7 participate in self-help and therapy programming.
8 That does conclude the reading of the decision.
9 Any comments, Commissioner Rodriguez?

10 **DEPUTY COMMISSIONER RODRIGUEZ:** Yeah,
11 Mr. Ngo, one thing I think you took more of a
12 leadership role in this incident and I think
13 you've been a little bit less than truthful today.
14 If I'm wrong and what you stated today is the
15 truth, I don't expect you to change your story
16 just for the Board's panel. But I truly would
17 like you to take this next two years, as far as
18 I'm certain you're programming well, don't
19 misunderstand me. But I think there's more to the
20 incident than you're actually telling us today.
21 Whether you just don't want to say it or you
22 choose not to say it or throughout the years
23 you've made yourself believe what you've said in
24 the past is correct. But I think if you look deep
25 down, I truly believe that you took more of a
26 leadership role and that possibly you did have,
27 **SIEU PHONG NGO J-07024 DECISION PAGE 5 05/13/02**

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1 know more about that weapon. So I want you to
2 think about that. But, again, like I said, if I
3 am incorrect, I don't expect you to come to the
4 Board next time and say you did do it if you
5 didn't. But I will ask you one more time, did you
6 know more about that gun?

7 **INMATE NGO:** (Inaudible) not until I looked
8 under the car. When I got into the car, that's
9 the first time I seen the gun, Sir.

10 **DEPUTY COMMISSIONER RODRIGUEZ:** Did you plan
11 the assault or the incident?

12 **INMATE NGO:** No, Sir.

13 **DEPUTY COMMISSIONER RODRIGUEZ:** Okay. Thank
14 you.

15 **ATTORNEY FOX:** I'm sorry. That's vague,
16 because he did earlier say he planned to fight
17 him, but not shoot him.

18 **INMATE NGO:** Thank you.

19 **DEPUTY COMMISSIONER RODRIGUEZ:** Okay, no, no
20 that's all right counselor. Thank you. And I
21 just want to wish you the best of luck.

22 **PRESIDING COMMISSIONER ANGELE:** Mr. Ngo, let
23 me tell you, you know, what disturbs me is the
24 other fight you had and we're very familiar with
25 the gang mentality. Regardless of whether or not
26 you beat somebody, going to beat somebody, the end
27 **SIEU PHONG NGO J-07024 DECISION PAGE 6 05/13/02**

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1 result is everybody jumps on a guy when he's down.
2 It happened in another fight you had. I think
3 your statement was, you couldn't be responsible
4 for what they do, but I'll tell you very frankly
5 if it was one of your crime partners involved in
6 that, you'd of jumped in just like everybody else
7 did. That's the way things are. We both know
8 that.

9 INMATE NGO: Yes, it is.

10 PRESIDING COMMISSIONER ANGELE: It disturbs
11 me that the killing of Mr. Gonzales was the same
12 type of situation. The only difference is
13 somebody had a gun there. So the history that you
14 started to accumulate would indicate to me that
15 the gang mentality that has no respect at all for
16 humanity, you know what happens next?

17 INMATE NGO: That's when I was young, Sir.

18 PRESIDING COMMISSIONER ANGELE: I realize
19 that. I realize that. And the reason why I
20 brought that up is I'd really like to see you get
21 into that anger management program here.

22 Hopefully, they'll get it out for you or you'll
23 get into it soon and maybe the next time you'll
24 have it under your belt. I figure it will help.
25 And I don't want this to discourage you. You're
26 doing a good job. And for an initial hearing,

27 SIEU PHONG NGO J-07024 DECISION PAGE 7 05/13/02

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1 your counsel knows, that two years is not a bad
2 thing. So I do wish you good luck.

3 INMATE NGO: Thank you, Sir.

4 PRESIDING COMMISSIONER ANGELE: That does
5 conclude the hearing. Time is approximately 3:52
6 p.m.

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25 PAROLE DENIED TWO YEARS

26 EFFECTIVE DATE OF THIS DECISION

JUN 10 2002

27 SIEU PHONG NGO J-07024 DECISION PAGE 8 05/13/02

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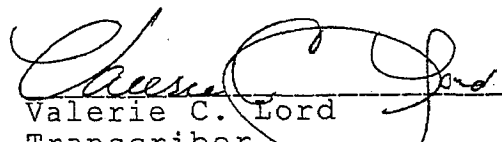
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CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, VALERIE C. LORD, a duly designated transcriber, CAPITOL ELECTRONIC REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 through 64, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, AT SOLEDAD, CALIFORNIA, in the matter of the INITIAL PAROLE CONSIDERATION HEARING of SIEU PHONG NGO, CDC No. J-07024, on MAY 13, 2002, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated May 23, 2002, at Auburn, California.



Valerie C. Lord
Transcriber
CAPITOL ELECTRONIC REPORTING

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EXHIBIT C

SUBSEQUENT PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PRISON TERMS

In the matter of the Life)
Term Parole Consideration)
Hearing of:)

SIEU NGO)
_____)

CDC Number J-07024

COPY

INMATE

CORRECTIONAL TRAINING FACILITY

SOLEDAD, CALIFORNIA

AUGUST 3, 2004

1:15 P.M.

PANEL PRESENT:

BOOKER WELCH, Presiding Commissioner
ROLANDO MEJIA, Deputy Commissioner

OTHERS PRESENT:

SIEU NGO, Inmate
DAVID SPOWART, Attorney for Inmate
JENNIFER CONTINI, Deputy District Attorney

CORRECTIONS TO THE DECISION HAVE BEEN MADE

_____ No See Review of Hearing
_____ Yes Transcript Memorandum

Wendy Thomas, Capitol Electronic Reporting

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P R O C E E D I N G S

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DEPUTY COMMISSIONER MEJIA: We are now on
the record.

PRESIDING COMMISSIONER WELCH: Okay, good
afternoon, Mr. Ngo.

INMATE NGO: Good afternoon.

PRESIDING COMMISSIONER WELCH: Sir, this is
a Subsequent Parole Consideration Hearing. I'll
read your case factors into the record. The
prisoner's name is Ngo, N-G-O. How do you
pronounce your first name?

INMATE NGO: Sieu.

PRESIDING COMMISSIONER WELCH: Sieu,
S-I-E-U, CDC number J-07024. The date of the
hearing is Tuesday, August 3rd, 2004, the time is
approximately 1:15. The location is Correctional
Training Facility, Soledad. The prisoner was
received CDC on 2-1, 1994 from Orange County for
the offense of murder second, case number C99109,
count one, Penal Code violated 187, total term 16
years to life, minimum eligible parole date was
5-24-03. Sir, this hearing will be tape-recorded
so for the purpose of voice identification, we'll
need to go around the room and identify ourselves
stating our full name, spelling our last name. In
your case, you need to add your CDC number. I'll
start with myself, go to my left. My name is

1 Booker Welch, W-E-L-C-H. Mr. Mejia.

2 DEPUTY COMMISSIONER MEJIA: Rolando Mejia,
3 M-E-J-I-A, Deputy Commissioner.

4 DEPUTY DISTRICT ATTORNEY CONTINI: Jennifer
5 Contini, C-O-N-T-I-N-I, Deputy District Attorney,
6 Orange County.

7 ATTORNEY SPOWART: David Spowart,
8 S-P-O-W-A-R-T, attorney for Mr. Ngo.

9 INMATE NGO: Sieu Ngo, S-I-E-U N-G-O, CDC
10 number J-07024.

11 PRESIDING COMMISSIONER WELCH: Okay, sir,
12 that identifies everyone in the room with the
13 exception of the correctional peace officer who is
14 seated directly behind you, two of them, and
15 they're here for security purposes only and will
16 not be taking part in today's proceedings. Mr.
17 Ngo, are you familiar with the American with
18 Disabilities law?

19 INMATE NGO: No, I'm not, Sir.

20 PRESIDING COMMISSIONER WELCH: Well, that
21 form in front of you, it will give you a good
22 overview. Do you mind reading that into the
23 record.

24 INMATE NGO: "ADA American with
25 Disability Act. Americans with
26 Disability Act (ADA) is a law to help
27 people with disabilities.

3

1 Disabilities are problems that make
2 it harder for some people to see,
3 hear, breathe, talk, walk, learn,
4 think, work, or take care of
5 themselves than it is for others.
6 Nobody can be kept of public places
7 or activities because of a
8 disability. If you have a
9 disability, you have the right to ask
10 for help to get ready for your BPT
11 hearing to get to the hearing, talk,
12 read forms and papers, and understand
13 the hearing process. BPT will look
14 at what you ask for to make sure that
15 you have a disability that is covered
16 by the ADA and that you have asked
17 for the right kind of help. If you
18 do not get help or if you don't think
19 you've got the kind of help you need,
20 ask for a BPT 1074 Grievance Form.
21 You can also get help to fill it
22 out."

23 **PRESIDING COMMISSIONER WELCH:** Very good.
24 Mr. Ngo, does that give you a little bit better
25 overview of what the American with Disabilities
26 law is all about?

27 **INMATE NGO:** Yes. Yes, Sir.

1 PRESIDING COMMISSIONER WELCH: Now after
2 being armed with that knowledge, let me ask you,
3 do you have a disability as defined under the
4 American Disabilities Act?

5 INMATE NGO: No, Sir.

6 PRESIDING COMMISSIONER WELCH: I see you
7 have glasses, do you need those to read?

8 INMATE NGO: I'm nearsighted.

9 PRESIDING COMMISSIONER WELCH: Nearsighted,
10 okay. You have no problems talking, reading here,
11 or walking, is that correct? You were able to
12 walk over under your own power today?

13 INMATE NGO: Yes, Sir.

14 PRESIDING COMMISSIONER WELCH: You have a
15 12.3 overall TABE grade point level which would
16 indicate to the Board that you're totally capable
17 of reading and understanding the documents
18 necessary to prepare for this hearing, is that
19 correct?

20 INMATE NGO: Correct, Sir.

21 PRESIDING COMMISSIONER WELCH: Have you
22 received any mental health treatment within the
23 last 12 months?

24 INMATE NGO: No, Sir.

25 PRESIDING COMMISSIONER WELCH: Counselor, do
26 you have any concerns about your client's rights
27 as it relates to the American with Disabilities

5

1 law?

2 ATTORNEY SPOWART: I have none.

3 PRESIDING COMMISSIONER WELCH: Okay, then
4 we'll proceed with this hearing. The purpose of
5 today's hearing is to once again to consider your
6 suitability for parole. We will consider the
7 nature and the number of the crimes you were
8 committed for, your prior criminality, your social
9 history, and your behavior and programming since
10 your commitment. We've had an opportunity to
11 review your C-File and your prior transcripts and
12 you'll have an opportunity to make corrections or
13 clarifications to the record. We will consider
14 your progress since your last hearing, any new
15 psychiatric reports, and any other information
16 that may have a bearing on your suitability for
17 parole. Any change in parole plans should be
18 brought to our attention. Before we recess for
19 deliberations, the District Attorney, your
20 attorney, and yourself will be given the
21 opportunity to make a final statement regarding
22 your suitability for parole and the length of
23 confinement. After that's done, we will recess,
24 clear the room, and deliberate. Once we reached a
25 decision, we will reconvene and at that time we'll
26 let you know what our decision is. Do you
27 understand all that so far?

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1 INMATE NGO: Yes, Sir.

2 PRESIDING COMMISSIONER WELCH: Now the Board
3 of Prison Terms rules and the law basically state
4 that a parole date shall be denied you if in the
5 opinion of the Commissioners your parole would
6 pose an unreasonable risk of danger to others.
7 However, prisoners do have certain rights.
8 Counsel, have your client's rights been met?

9 ATTORNEY SPOWART: Yes, they have.

10 PRESIDING COMMISSIONER WELCH: Mr. Ngo, you
11 have an additional right, you have the right to a
12 fair and impartial panel. Do you have any reason
13 to believe the Panel Members will not be fair and
14 impartial to you?

15 INMATE NGO: I would like to reserve that
16 right towards the end of this hearing.

17 PRESIDING COMMISSIONER WELCH: Okay. Mr.
18 Ngo, that's fine, I don't have a problem with
19 that, but I do need to tell you that I have no
20 reason not to give you a fair hearing. I have
21 every intention to make sure that your due process
22 rights are adhered to. I've already covered your
23 ADA issues and made sure you didn't have any
24 issues with that. I'll be going over your due
25 process right issues to insure that you don't have
26 a problem with your rights. And during the
27 hearing, it is -- I have every intention to insure

1 that you receive a fair and impartial hearing.

2 Commissioner, do you have any reasons why you
3 can't give the prisoner a fair hearing?

4 **DEPUTY COMMISSIONER MEJIA:** No, I'm
5 objective and I take the case on a case by case
6 basis, no predetermined opinion or belief for
7 suitability or unsuitability. I'll base all my
8 decision based on what I hear here and also what's
9 reflected in his file.

10 **PRESIDING COMMISSIONER WELCH:** Okay, very
11 good. Sir, you will receive a copy of our written
12 tentative decision today. The decision becomes
13 effective in 120 days. Mr. Ngo, you no longer
14 have a right to administrative appeals process, do
15 you understand that?

16 **INMATE NGO:** Yes, I do.

17 **PRESIDING COMMISSIONER WELCH:** Okay.

18 **INMATE NGO:** The 1040 you mean?

19 **PRESIDING COMMISSIONER WELCH:** Yes. You're
20 not required to discuss the offense today, you're
21 not required to admit to guilt. However, the
22 Panel Members accept as true the findings of the
23 court. Do you understand that concept?

24 **INMATE NGO:** Yes, I do.

25 **PRESIDING COMMISSIONER WELCH:** Counselor,
26 pardon me?

27 **INMATE NGO:** I would like to say that I will

8

1 not be talking about -- discussing my case, my
2 case today under Penal Code section 5011. And
3 before we go any further, I would like to submit
4 this memorandum as evidence in support of my
5 parole suitability to you.

6 PRESIDING COMMISSIONER WELCH: Okay, I'll
7 take it at this time, but you're getting a little
8 ahead of the game, we were going to give you an
9 opportunity. That's fine we'll accept it now,
10 how's that?

11 INMATE NGO: Thank you.

12 PRESIDING COMMISSIONER WELCH: Okay, very
13 good. And certainly you do not have to talk or
14 admit to the crime. Very good. Commissioner, is
15 there any confidential information to be used
16 today?

17 DEPUTY COMMISSIONER MEJIA: None.

18 PRESIDING COMMISSIONER WELCH: Good.
19 Counselor, I passed you a list of the documents we
20 will be working from. Do you have those
21 documents?

22 ATTORNEY SPOWART: Yes, I have these.

23 PRESIDING COMMISSIONER WELCH: District
24 Attorney, do you have those documents?

25 DEPUTY DISTRICT ATTORNEY CONTINI: Yes, I
26 do.

27 PRESIDING COMMISSIONER WELCH: Counselor, do

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1 you have any additional documents to submit? Your
2 counsel have already -- I mean, your client have
3 already submitted a brief.

4 **ATTORNEY SPOWART:** He's already given me
5 that brief, he says the first 10 pages are an
6 overview of why he should be considered.

7 **PRESIDING COMMISSIONER WELCH:** Why he should
8 be considered for parole.

9 **INMATE NGO:** Because it would clarify my
10 position at this hearing today, Sir.

11 **PRESIDING COMMISSIONER WELCH:** Okay, then we
12 will review that during deliberations, we'll go
13 through and review that.

14 **INMATE NGO:** All right, Sir.

15 **PRESIDING COMMISSIONER WELCH:** Very good,
16 very good. Any other documents to submit?

17 **ATTORNEY SPOWART:** No, I haven't.

18 **PRESIDING COMMISSIONER WELCH:** Any
19 preliminary objections?

20 **ATTORNEY SPOWART:** Yeah, I have an
21 objection. This was a plea agreement and I have
22 an objection to the District Attorney being here
23 today on a recent Supreme Court ruling that
24 classifies a plea agreement as a contract. I know
25 that my client was not the shooter, he had no
26 criminal prior record, and has had an excellent
27 performance since he's been in here, so.

1 **PRESIDING COMMISSIONER WELCH:** What does
2 that have to do with the District Attorney being
3 here?

4 **ATTORNEY SPOWART:** That the District
5 Attorney is breaking the contract (inaudible).
6 When he pled, he gave up certain rights. The
7 People got certain benefits from that.

8 **PRESIDING COMMISSIONER WELCH:** Okay.

9 **ATTORNEY SPOWART:** They got their benefits.
10 Now they're just trying to deny him of his
11 benefits.

12 **PRESIDING COMMISSIONER WELCH:** Okay, all
13 right, I think I understand.

14 **ATTORNEY SPOWART:** (Inaudible).

15 **PRESIDING COMMISSIONER WELCH:** Okay.

16 **ATTORNEY SPOWART:** I just want it on the
17 record, Commissioner.

18 **PRESIDING COMMISSIONER WELCH:** Okay,
19 absolutely, absolutely. I'm going to overrule
20 that objection because according to Penal Code
21 3042, section 3042 that is, the District Attorney
22 or his representative have a right to appear and
23 represent The People's interest at these hearings.
24 If not the District Attorney, certainly the
25 Attorney General, he can appear depending on who
26 prosecuted the case or has a major interest in the
27 case, not one or both, but only one can appear.

11

1 In this case, The People -- the District Attorney
2 of Orange County have opted to send his
3 representative, i.e., the Deputy District Attorney
4 from Orange County here to represent the District
5 Attorney. Therefore, per statute, per Penal Code,
6 I'll have to overrule that objection, okay. All
7 righty, thank you very much. Any other
8 objections?

9 **ATTORNEY SPOWART:** I have none.

10 **PRESIDING COMMISSIONER WELCH:** All right,
11 thank you, Mr. Spowart. Okay, and your client
12 will not be speaking to us today?

13 **ATTORNEY SPOWART:** Not on the life crime, he
14 pled on the crime.

15 **PRESIDING COMMISSIONER WELCH:** Will he be
16 speaking -- will he be giving any testimony today?

17 **ATTORNEY SPOWART:** Yes, he'll talk about
18 everything else.

19 **PRESIDING COMMISSIONER WELCH:** Okay, Mr.
20 Ngo, would you raise your right hand.

21 **INMATE NGO:** Yes, Sir.

22 **PRESIDING COMMISSIONER WELCH:** Do you
23 solemnly swear or affirm that the testimony you
24 give today will be the whole truth and nothing but
25 the truth?

26 **INMATE NGO:** Yes, I do, Sir.

27 **PRESIDING COMMISSIONER WELCH:** Okay. In

12

1 that case what I'm going to do, Mr. Ngo, is just
2 go to -- let me give this to my colleague, he can
3 take a look at it and then I'll take a look at it
4 later. Are your parole plans in that brief you
5 submitted?

6 INMATE NGO: Yes, Sir.

7 PRESIDING COMMISSIONER WELCH: You've got
8 everything in it, okay.

9 INMATE NGO: Parole plan, place for
10 residence, employment, support letters.

11 PRESIDING COMMISSIONER WELCH: Okay, very
12 good. Let's go to the summary of the crime, it
13 say,

14 "On 9-18, 1992 Angel Gonzalez,
15 G-O-N-Z-A-L-E-Z, was beaten and shot
16 to death near Fullerton,
17 F-U-L-L-E-R-T-O-N, High School as he
18 walked home after school. An
19 investigation revealed that earlier
20 in the day the victim, a member of
21 the Fullerton Tokers, T-O-K-E-R-S,
22 Town, a Latin gang, and members of
23 the Fullerton Boys, an Asian gang,
24 were at a McDonald's Restaurant near
25 the high school. The victim and
26 Usumang Muhamed had a confrontation
27 with each claiming their respective

13

1 gang affiliations. After a
2 nonphysical altercation, a group of
3 Asians, which at the time included
4 Sieu Phong Ngo obtained -- and middle
5 name is spelled P-H-O-N-G, referring
6 to the prisoner, obtained a firearm.
7 Ngo and the Asian gang members
8 returned to the school where they
9 waited for Gonzalez. As he walked
10 home, he was attacked and beaten.
11 During the physical altercation, the
12 victim was shot one time in the back
13 by Usumang, that's U-S-U-M-A-N-G,
14 Muhamed, M-U-H-A-M-E-D. The group of
15 five Asian gang members including Ngo
16 fled the area after shooting Angel
17 Gonzalez who died at the scene as a
18 result of the gunshot wound. Ngo,
19 Jimmy Bao, B-A-O, and Asat, A-S-A-T,
20 Cham, C-H-A-M, --"

21 or is that Ham? C-H-A?

22 INMATE NGO: Cham.

23 PRESIDING COMMISSIONER WELCH: "-- Cham,
24 C-H-A-M, fled to the State of Washington. They
25 were subsequently apprehended there and the murder
26 weapon, a stolen .22 caliber handgun, was
27 recovered in the vehicle." Now we'll go to the

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1 prisoner's version,

2 "Ngo explained that earlier in the
3 day his group had a confrontation
4 with the victim. Subsequently he and
5 his group went to an arcade to play
6 games. At that time his companion
7 took possession of a weapon. Ngo
8 stated that he did not see the gun
9 until he was in the vehicle. It was
10 located under the passenger's seat
11 and he and his companion returned to
12 Fullerton High School where they
13 parked and went to look for Gonzalez,
14 the victim. Ngo explained that they
15 had a gun for protection in case
16 someone else happened to have a
17 weapon. They found Gonzalez and his
18 group and started fighting with the
19 victim. During the fighting Ngo
20 heard two shots. Ngo explained that
21 no one intended to kill the victim,
22 they just planned to beat him up
23 because the victim had told them to
24 get out of town and that made Muhamed
25 angry. Ngo realized that his
26 behavior was a mistake. Ngo drove
27 his two companions to Washington

1b

1 because Muhamed told him that he knew
2 someone who would give them shelter.
3 Ngo feels sorry for the victim's
4 family."

5 Juvenile record, there's no juvenile arrest. Will
6 you be talking about your juvenile record, I mean,
7 your criminal history?

8 **INMATE NGO:** I have no juvenile record. I
9 have one drug diversion with a controlled
10 substance. I was given a diversion but I was
11 never able to complete it --

12 **PRESIDING COMMISSIONER WELCH:** Okay.

13 **INMATE NGO:** -- because I got this case,
14 that's about it.

15 **PRESIDING COMMISSIONER WELCH:** It says, no
16 juvenile record as previously noted. On 3-30,
17 1992 Ngo was arrested by the San Gabriel Police
18 Department for possession of controlled substance,
19 three pieces of rock cocaine. On 5-7-92 he was
20 diverted pursuant to Penal Code section --
21 pursuant to section 1000 of the Penal Code. On
22 9-22, 1992, Ngo was arrested by the Olympic
23 Sheriff for possession of stolen property. This
24 case was subsequently dismissed. So you had two
25 arrests?

26 **INMATE NGO:** Yes, because we were arrested
27 in Washington.

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16

1 **PRESIDING COMMISSIONER WELCH:** Okay.

2 **INMATE NGO:** I guess you can consider it as
3 two, for the same crime.

4 **PRESIDING COMMISSIONER WELCH:** Well, it says
5 you was arrested for stolen property and that was
6 dismissed.

7 **INMATE NGO:** They say the gun -- I sold the
8 gun but I never lived in Washington so they note
9 there was a (indiscernible) chance I stole the gun
10 when he brought it to California, so. I didn't
11 know nothing about the gun. I just drove there
12 for shelter like I said. I didn't know nothing
13 about the stolen property.

14 **PRESIDING COMMISSIONER WELCH:** All right,
15 now we have the explanation on the record.
16 Personal factors, Ngo was born in Vietnam on 5-18,
17 1973. He resided in the United States until 1979.
18 In 19 -- He resided in the United States since
19 1979. In 1991 he graduated from Fullerton High
20 School and subsequently attended Fullerton
21 Community College and Pasadena City College. He
22 completed 10 units and his major was business.
23 Ngo was employed as a telemarketing and worked odd
24 jobs. He was employed at his family's liquor
25 store and resided with his parents. Ngo had
26 problems with -- Ngo had problems with controlled
27 substance or alcohol. Is that true?

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17

1 INMATE NGO: I don't have no problem with
2 drugs at this point. I never drank alcohol
3 because I'm allergic to alcohol. I tried cocaine
4 and I got busted.

5 PRESIDING COMMISSIONER WELCH: Okay.

6 INMATE NGO: I have never used since, since
7 that day.

8 PRESIDING COMMISSIONER WELCH: Have you used
9 any -- used any other illegal substances?

10 INMATE NGO: No, I don't, Sir.

11 PRESIDING COMMISSIONER WELCH: Okay. It
12 says you were a member of the Fullerton Boys, is
13 that correct, gang?

14 INMATE NGO: Used to be.

15 PRESIDING COMMISSIONER WELCH: Okay. And
16 after you moved to Los Angeles you became
17 affiliated with the Tiger Mafia.

18 INMATE NGO: Yeah, that was just a made up
19 name (inaudible) at that point.

20 PRESIDING COMMISSIONER WELCH: What?

21 INMATE NGO: It was a made up name, like I
22 told my last hearing that it was just to throw the
23 detective off my trail.

24 PRESIDING COMMISSIONER WELCH: To throw the
25 detective off your trail, okay, all right. Your
26 family, do you have any brothers and sisters?

27 INMATE NGO: Yes, I do, Sir.

18

1 PRESIDING COMMISSIONER WELCH: How many?

2 INMATE NGO: I've got one older brother, two
3 older sisters, one younger brother, and one
4 younger sister.

5 PRESIDING COMMISSIONER WELCH: Okay, any of
6 your brothers have problems with law enforcement
7 agents?

8 INMATE NGO: No.

9 PRESIDING COMMISSIONER WELCH: Any of your
10 brothers been members of gangs?

11 INMATE NGO: No.

12 PRESIDING COMMISSIONER WELCH: Did you grow
13 up in an intact home with both parents?

14 INMATE NGO: Yes, I did, Sir.

15 PRESIDING COMMISSIONER WELCH: Would you say
16 you had a stable home environment?

17 INMATE NGO: Yes, I have.

18 PRESIDING COMMISSIONER WELCH: Were you
19 married before you came to prison?

20 INMATE NGO: No, Sir.

21 PRESIDING COMMISSIONER WELCH: Any childrens
22 before you came to prison?

23 INMATE NGO: No, Sir.

24 PRESIDING COMMISSIONER WELCH: Did you ever
25 serve in any branch of the military?

26 INMATE NGO: No. I tried it but they didn't
27 want me because I was a smoker back then.

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1 PRESIDING COMMISSIONER WELCH: Because you
2 were smoker of what?

3 INMATE NGO: Cigarettes, tobacco.

4 PRESIDING COMMISSIONER WELCH: And the
5 military turned you down because you smoked
6 tobacco?

7 INMATE NGO: Yes.

8 PRESIDING COMMISSIONER WELCH: What year was
9 that?

10 INMATE NGO: I think I tried it during --
11 after my graduation in South Pasadena and before
12 my graduation it was '89 or '90 I tried, I wanted
13 to go to the Marines because I heard they can
14 travel around the world.

15 PRESIDING COMMISSIONER WELCH: And they
16 turned you down because you smoke?

17 INMATE NGO: Yes.

18 PRESIDING COMMISSIONER WELCH: That's a new
19 one on me.

20 INMATE NGO: That's what they said.

21 PRESIDING COMMISSIONER WELCH: Okay, depends
22 on what you smoke. What did you smoke? What did
23 you tell them you smoked?

24 INMATE NGO: Tobacco.

25 PRESIDING COMMISSIONER WELCH: Okay, just
26 tobacco, huh?

27 INMATE NGO: Just tobacco.

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20

1 **PRESIDING COMMISSIONER WELCH:** All right.

2 It says you had -- and we already talked about you
3 said you had odd jobs, fast-food and you worked in
4 your family's liquor store, is that correct?

5 **INMATE NGO:** Yes, Sir.

6 **PRESIDING COMMISSIONER WELCH:** Is that
7 pretty much your employment history?

8 **INMATE NGO:** Yes.

9 **PRESIDING COMMISSIONER WELCH:** Okay, what
10 I'd like for you to do now is give your attention
11 to my colleague, he's going to talk to you about
12 post-conviction. I'll come back and talk to you
13 about your parole plans.

14 **INMATE NGO:** All right, Sir.

15 **DEPUTY COMMISSIONER MEJIA:** All right, Mr.
16 Ngo, I'll be covering your institutional
17 adjustment in this portion of this hearing since
18 your last Board appearance. I have reviewed your
19 Central File, Board reports and psychiatric
20 reports. If I miss anything, I'll be giving you
21 and your attorney an opportunity to make comments
22 at the end of my presentation. Your last Board
23 appearance was on May 13th, 2002 where you received
24 a two-year denial. Your recommendation was for
25 you to remain disciplinary free, upgrade
26 educationally, participate in self-help and
27 therapy. Classification score is 19, custody

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21

1 level is medium A, you're assigned to the culinary
2 warehouse, correct?

3 INMATE NGO: Correct, Sir.

4 DEPUTY COMMISSIONER MEJIA: And I see some
5 laudatory chronos here about your performance.
6 Vocational history, you have an auto upholstery
7 completion, an auto finishing completion. You
8 also have a forklift certification.

9 INMATE NGO: Correct, Sir.

10 DEPUTY COMMISSIONER MEJIA: And I see that
11 you're taking classes (inaudible) with the
12 Coastline Community College.

13 INMATE NGO: Correct, Sir.

14 DEPUTY COMMISSIONER MEJIA: When did you
15 start this?

16 INMATE NGO: A little over -- about two
17 years now.

18 DEPUTY COMMISSIONER MEJIA: Two years. How
19 many years have you completed so far?

20 INMATE NGO: So far completed -- at this --
21 this class I'm taking health right now. Currently
22 I have 23.

23 DEPUTY COMMISSIONER MEJIA: Twenty-three
24 units.

25 INMATE NGO: I will have 23 units.

26 DEPUTY COMMISSIONER MEJIA: Forklift. Do
27 you have a high school?

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22

1 INMATE NGO: Yes, I do.

2 DEPUTY COMMISSIONER MEJIA: Where did you

3 complete your high school at?

4 INMATE NGO: Fullerton Union High.

5 DEPUTY COMMISSIONER MEJIA: Fullerton Union

6 High. Do you have a copy of the diploma?

7 INMATE NGO: I should, yes.

8 DEPUTY COMMISSIONER MEJIA: Can I see it,

9 please? I couldn't find it in here.

10 INMATE NGO: It should be in my file.

11 DEPUTY COMMISSIONER MEJIA: If I thought --

12 If it was here I wouldn't ask for it. Maybe I'm

13 just missing it but I don't want to spend time

14 looking for it.

15 INMATE NGO: Unless I didn't put it in

16 there.

17 DEPUTY COMMISSIONER MEJIA: It's not in your

18 --

19 INMATE NGO: It's not in my C-File either?

20 DEPUTY COMMISSIONER MEJIA: It's not in your

21 --

22 INMATE NGO: I guess I didn't put it in

23 there. I figured the C-File had it, but I can

24 always get you a copy if you need one.

25 DEPUTY COMMISSIONER MEJIA: Okay. What year

26 did you graduate there?

27 INMATE NGO: '91.

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23

1 DEPUTY COMMISSIONER MEJIA: 1991?

2 INMATE NGO: It was '91, yes.

3 DEPUTY COMMISSIONER MEJIA: Okay, and since
4 your last Board appearance in 2002 you were -- I
5 see that you have started in AA since 1997 and
6 then you switched to NA 2001 (inaudible)?

7 INMATE NGO: I've been going, yes.

8 DEPUTY COMMISSIONER MEJIA: The last chrono
9 was on --

10 INMATE NGO: It should be -- my last chrono
11 was 7-8-04 date of it.

12 DEPUTY COMMISSIONER MEJIA: Okay, 7-8-04 is
13 your NA participation.

14 INMATE NGO: My most recent one.

15 DEPUTY COMMISSIONER MEJIA: Yes, and the one
16 I have here on file is 2003 of March. Okay, you
17 also completed the IMPACT program in 2002
18 workshop?

19 INMATE NGO: Right.

20 DEPUTY COMMISSIONER MEJIA: 3-16, 2002.

21 There's a chrono from Mr. Vazquez, warehouse
22 supervisor, as a culinary storékeeper. You have
23 performed your assignment with excellence. You
24 have a good, helpful, mature attitude and has
25 worked even on holidays. On disciplinaries, you
26 have zero 115s and two 128(a)'s from -- one on
27 April '97 and one on 2000 -- in 2000. (Inaudible)

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1 gang affiliation noted (inaudible) Tiger Mafia
2 member. And when was the last time you were
3 hanging out with the Tiger Mafia as a member?

4 INMATE NGO: Well, there is no Tiger Mafia,
5 as I was saying earlier, it's just a made up name,
6 so I don't have -- you know, there's no more gang
7 for me. I've grown out of it. Back then it was
8 just a --

9 DEPUTY COMMISSIONER MEJIA: So was that the
10 Fullerton?

11 INMATE NGO: Fullerton, yes.

12 DEPUTY COMMISSIONER MEJIA: What was that,
13 Fullerton --

14 INMATE NGO: Fullerton Boys, they call it
15 Fullerton Boys.

16 DEPUTY COMMISSIONER MEJIA: Fullerton Boys
17 named as the Tiger Mafia? Are you talking about
18 the same place?

19 INMATE NGO: No, it's two different places,
20 LA right, I was living at LA at that time so, you
21 know, when they asked me where I was from, I told
22 them Tiger Mafia because they saw two initials on
23 my arm with TM so I just told them Tiger Mafia
24 just to make it up.

25 DEPUTY COMMISSIONER MEJIA: So was there
26 really a Tiger Mafia gang?

27 INMATE NGO: No, there's not. You can check

25

1 into LA Police Department, you will not find no
2 Tiger Mafia at all.

3 **DEPUTY COMMISSIONER MEJIA:** Well, I'm going
4 to your psych report. Your psych report is dated
5 January 21, 2002 by Dr. Saindon, spelling
6 S-A-I-N-D-O-N. We're going to look at your
7 substance abuse history, we have heard that you
8 said that you tried cocaine. "Previous mental
9 health evaluation for the Board of Prison Terms
10 has recommended that he be involved in AA and NA.
11 However, inmate feels that he never really had a
12 drug or alcohol problem although he does currently
13 attend AA." And you are attending NA right now,
14 right?

15 **INMATE NGO:** Right.

16 **DEPUTY COMMISSIONER MEJIA:** Okay. And his
17 mental health status at this time of the
18 evaluation 2002 indicates that,

19 "There's no evidence of mood or
20 thought disorder, his judgment
21 appeared to be sound, showed
22 significant insight into his
23 commitment offense as far as some
24 recognition. There's no guarantee
25 that he will be paroled at this time
26 by the Board of Prison Terms."

27 Diagnostic impressions, No Contributory Clinical

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1 Disorder, Axis I. Axis II Deferred, Axis III No
2 Contributory Physical Disorder, Axis IV Long-Term
3 Incarceration, Axis V Global Assessment of
4 Functioning of 90. There's no evidence that he
5 suffers from any psychiatric illness. Assessment
6 of dangerousness, "Although --" he says,
7 "There's no evidence the inmate
8 currently suffers from any
9 psychiatric illness although he does
10 recognize that (inaudible) he was
11 vulnerable to depression and was
12 tempted by conscious altering
13 substances. In consideration of the
14 fact that he has received no 115s
15 through his entire incarceration, it
16 would appear that he has at least in
17 this controlled setting been able to
18 manage his behavior and remain
19 incident free."

20 Assessment of dangerousness,

21 "Mr. Ngo (inaudible) with the
22 information given in the Central File
23 and medical record with respect to
24 his prior history of (inaudible) or
25 attempt to use cocaine and was
26 affiliated with gangs, this resulted
27 in his current offense. Based upon

21

1 his complete lack of disciplinary
2 action while incarcerated, his
3 insight into negative aspects of gang
4 involvement, his remorse for his
5 actions, his violence potential
6 within a controlled is to be below
7 average relative to the level II
8 inmate population. If released to
9 the community, his violence potential
10 is estimated to be less than the
11 average citizen in the community
12 given his insight, his demonstrated
13 ability to stay out of trouble, his
14 successful development of plans upon
15 release, and the support of his
16 family. (Inaudible) the most
17 significant risk factor for this
18 inmate as a precursor to violence or
19 a return to criminal behavior would
20 be his being involved with others
21 having a criminal history and/or gang
22 members, the use of alcohol and
23 drugs, and isolation from his family
24 members. As this man has spent 10
25 years in prison, I would recommend,
26 should he be paroled, abstinence from
27 all alcohol and use of uncontrolled

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1 substance, frequent monitoring of
2 substance abuse, if at all possible
3 should be a relative so he's near to
4 his family, and should make frequent
5 reports to his parole officer. Given
6 his family's commitment in supporting
7 him upon his release, his projected
8 level of success in the community if
9 granted a date for parole is seen at
10 this time to be better than average."

11 His counselor based him as posing a low degree of
12 threat to the community if released. Have you got
13 any comments or any additions to my presentation,
14 Counsel?

15 **INMATE NGO:** Do you have any of my support
16 letters from my family because --

17 **DEPUTY COMMISSIONER MEJIA:** That will be
18 done by --

19 **INMATE NGO:** Okay.

20 **DEPUTY COMMISSIONER MEJIA:** Any additional
21 comments?

22 **PRESIDING COMMISSIONER WELCH:** Are you done?

23 **DEPUTY COMMISSIONER MEJIA:** Yeah.

24 **PRESIDING COMMISSIONER WELCH:** Okay.

25 **DEPUTY COMMISSIONER MEJIA:** I'll go back to
26 the Chair and we'll take a recess.

27 **PRESIDING COMMISSIONER WELCH:** Okay, we'll

1109

29

1 take a recess for a minute.

2 [Off the record.]

3 PRESIDING COMMISSIONER WELCH: Mr. Ngo, in
4 case --

5 DEPUTY COMMISSIONER MEJIA: We're back on
6 record.

7 PRESIDING COMMISSIONER WELCH: Mr. Ngo, in
8 case you receive a parole date, tell the Panel
9 where you plan to live.

10 INMATE NGO: I'll be living with my mom to
11 start off.

12 PRESIDING COMMISSIONER WELCH: Where does
13 your mom live?

14 INMATE NGO: In Monterey Park.

15 PRESIDING COMMISSIONER WELCH: Do you have
16 an INS hold?

17 INMATE NGO: No, Sir.

18 PRESIDING COMMISSIONER WELCH: Are you a US
19 citizen?

20 INMATE NGO: Yes, Sir.

21 PRESIDING COMMISSIONER WELCH: Okay, and how
22 do you plan to support yourself?

23 INMATE NGO: I'll be working at my uncle's
24 restaurant for now, (inaudible) chef.

25 PRESIDING COMMISSIONER WELCH: Okay, and you
26 have lots of support letters in the file and your
27 affidavit that you submitted. And it appears that

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30

1 you do have employment and you have a place to
2 live. I'll start off by going over some of your
3 letters. Your mom wrote you a letter, her name is
4 Ngo Phuong? Phuong Huynh?

5 INMATE NGO: Phuong Huynh.

6 PRESIDING COMMISSIONER WELCH: Phuong Huynh,
7 okay, let me just spell the first name, the first
8 name is spelled P-H-U-O-N-G, and the middle name
9 is H-Y -- H-U-Y-N-H, and the last name is the same
10 as the prisoner's, N-G-O. Anyway, she writes you
11 a very supportive letter. She says,

12 "As the birth mother of Sieu Ngo, I
13 am writing to request for your
14 leniency and kind review of the
15 parole of Sieu Ngo. Years ago our
16 family immigrated into the United
17 States from Vietnam. With the kind
18 support from the US Government and
19 local communities, we settled down in
20 California and became US citizens in
21 1979. All of our family members are
22 deeply indebted to our government and
23 community and we are determined to
24 serve our country when called for.
25 In fact, my children volunteer at
26 school and communities and help out
27 kids. I have six children, some are

31

1 college graduates and are doing very
2 well in their careers, such as Chi
3 Phong Ngo, middle name is -- I mean,
4 first name is C-H-I, middle name is
5 P-H-O-N-G. My son is a quality
6 assurance software engineer. Judy
7 Seeto --" Seeto?

8 **INMATE NGO:** Correct.

9 **PRESIDING COMMISSIONER WELCH:**

10 "--S-E-E-T-O, my daughter, is
11 pursuing a college degree while
12 working full-time at Pacific Care.
13 And Lan Lau, L-A-N, last name is
14 L-A-U, another daughter, is an
15 assistant technician working at DG --
16 DCG Group Pacific Bell, SPG
17 (inaudible) Solutions Incorporated.
18 My husband was running a paint
19 business. Unfortunately he passed
20 away in 1995 at the age of 47. Some
21 of my uncles and aunts are business
22 owners of restaurants and stores. I
23 used to run a family business too, a
24 convenience store."

25 And she says,

26 "Sieu Ngo have been working and
27 studying hard in prison and doing

32

1 well in his college studies. Please
2 be assured that Sieu Ngo, if paroled,
3 will be well taken care of and
4 supervised by his family, relatives,
5 and friends. We, his immediate
6 family members, will support him in
7 every aspect of life. We plan to let
8 him complete his college studies
9 before entering the workforce. We
10 are financially capable and
11 emotionally prepared and spiritually
12 determined to help Sieu Ngo and his
13 endeavors to create his reborn life
14 and become a contributing member to
15 our society. Thank you in
16 anticipation of your kind review in
17 granting Sieu Ngo parole."

18 And your mother signed that. Very supportive.
19 And another one from Gavin Ung. Is that U-N-G?

20 **INMATE NGO:** Yes, my uncle.

21 **PRESIDING COMMISSIONER WELCH:** He says,
22 "I am in the Chinese restaurant
23 business and currently employ about
24 20 workers. Sieu, if released from
25 prison, he will also be welcomed to
26 work for me if he so chooses.
27 Besides me willing to provide him

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33

1 with accommodation, transportation,
2 and job, I believe there are a lot of
3 other relatives such as his mom,
4 siblings, uncles, and aunts who are
5 willing -- who will always be more
6 than willing to help with all his
7 essential daily needs."

8 Okay, and I have another one from Chi Ngo/Judy Ngo
9 -- slash Judy Ngo, and she writes -- she's writing
10 on behalf of her brother. She feels that you're a
11 good man and, "Tom is a good man and will remain
12 so. He's a caring person who wants to take care
13 of his mother if he gets a second chance. My wife
14 and I can fully support him financially and care
15 for all his personal needs including housing. I
16 believe Tom --" Do you also go by the name of Tom?

17 INMATE NGO: Yes, that's my middle name.

18 PRESIDING COMMISSIONER WELCH: Okay. "I
19 believe Tom -- I believe in Tom and only good will
20 shine from him as each day passes." Another
21 letter here from --

22 INMATE NGO: Thanah.

23 PRESIDING COMMISSIONER WELCH: T-H-A-N-A-H,
24 he writes you a very supportive letter.

25 INMATE NGO: She.

26 PRESIDING COMMISSIONER WELCH: She, okay,
27 your older sister I'm trying to say.

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34

1 INMATE NGO: Second oldest.

2 PRESIDING COMMISSIONER WELCH: Second oldest

3 sister. And she says,

4 "As you can see he's just the kind of

5 person and always there for anyone

6 who needs help. Because of his

7 caring and kind personality, he has

8 done some harm to himself, this is

9 how he got himself into this mess.

10 I'm sure that the whole mess has

11 taught my brother to beware of his

12 friends. Sieu's decision to hang out

13 with his friends was a costly one.

14 My brother was a young naïve. Now

15 he's a grownup person and realizes

16 his actions and takes responsibility

17 to make changes to become a better

18 person."

19 And she goes on to say, "Our family have already

20 arranged for his support once he's released, my

21 husband's store," and she writes the telephone

22 number, "and is located on (indiscernible) Avenue

23 and Alhambra. And a matter of fact his uncle --

24 his aunts and uncle also offered him work in their

25 restaurant. The store name is Hot Wok --"

26 INMATE NGO: Hot Wok.

27 PRESIDING COMMISSIONER WELCH: That's H-O-T

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35

1 W-O-K, "-- and that's in Fullerton. And there's a
2 First (inaudible) Kitchen that's in Anaheim.
3 Housing would not be a problem. And we all make
4 arrangements for him." So Duc Ngo?

5 INMATE NGO: Duc Ngo.

6 PRESIDING COMMISSIONER WELCH: D-U-C Ngo.
7 Anyway, that's your brother, says, "I'm writing a
8 letter in support of my brother." He writes you a
9 very supportive letter and he pretty much voices
10 the same thing that the other ones wrote. I have
11 another letter here from your defense attorney at
12 the time and I'll read his letter. He says, "I
13 represented --" her letter I should say,

14 "I represented Mr. Ngo in the case
15 which sent him to prison. I have
16 been a criminal defense attorney for
17 over 26 years and have represented
18 over 40 persons accused of homicides.
19 I do not see my clients through rose
20 colored glasses and have never
21 written a letter like this on behalf
22 of an inmate for a parole hearing.
23 The circumstances of Mr. Sieu's case
24 compel me to make a statement in this
25 instant. At the time of the incident
26 he was a very likable young man and
27 with no significant criminal history.

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1 My recollection, he had no conviction
2 of any crime or violence. The
3 incident in question was very
4 different from the typical gang case
5 and in fact a work sketching for your
6 review, Sieu and his friends was a
7 wannabe type group who did not really
8 have a significant history of tough
9 turf in Orange County as a gang. On
10 the day of the incident, some of
11 Sieu's friends by chance went to
12 McDonald's which was near Fullerton
13 High School in North Orange County.
14 Sieu was not present at the time.
15 One of Sieu's ultimate codefendants
16 got in a staring match with the
17 decedent and some of his friends who
18 were members of the Toker Gang --
19 Toker Town, a long established
20 Hispanic group in Fullerton.
21 Essentially the Toker, that's spelled
22 T-O-K-E-R T-O-W-N -- Essentially the
23 Toker Town Group told Sieu's friends
24 that they, Cooks, that's C-O-O-K-S,
25 were not welcome in Fullerton where
26 some of them already live and they
27 should get out of town. (Inaudible)

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1 Sieu's friends decided to confront
2 the decedent's group after school got
3 out that day. Sieu was called to
4 help out in case they were
5 outnumbered. Their group waited at
6 the school and confronted the
7 decedent and one of his friends about
8 two blocks out of Fullerton High
9 School, not on school grounds. From
10 all appearances, this was intended to
11 be a fistfight. Sieu and his friends
12 who had been in the stare-down
13 approached the decedent and a friend
14 who was walking on the sidewalk and a
15 fistfight is how it started.
16 However, the decedent's friend fled
17 just after the punching began and
18 left Sieu and his friend fighting the
19 decedent who was much larger than
20 either of them. Of course this was
21 unfair but nothing at this point
22 suggested that this was intended to
23 be a homicide. A third member of
24 Sieu's -- A third member of the group
25 who was part of -- A third member of
26 the group who was part of (inaudible)
27 from where their car was parked to

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1 the scene of the site, he reached up
2 while the fight was in progress, shot
3 the decedent, killed him, and
4 narrowly missed Sieu. Sieu and all
5 of his friends then fled, ultimately
6 being arrested out of state.
7 Evidence was received to show that
8 Sieu and his friends knew that a gun
9 was in a car. Based largely upon
10 that and the theory of foreseeable
11 consequences, he and all of his
12 codefendants were convicted. Sieu
13 was not the shooter and no evidence
14 to show that he suggested,
15 encouraged, abated -- or abetted the
16 shooting in any way. After the
17 shooting, Sieu angrily confronted the
18 shooter, demanded to know why he
19 brought out the gun and asserted that
20 he, Sieu, didn't know the gun was
21 going to be used. In summary, this
22 was not a drive-by or a similar gang
23 crime where everyone knew (inaudible)
24 should have known that death or
25 serious injury was intended. On the
26 contrary, this appears to be an
27 impulsive act by one member of the

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1 group which due to the rest of the
2 circumstances swept them all up by
3 way of the derivative liability --
4 derivative liability,
5 D-E-R-I-V-A-T-I-V-E. I am not
6 suggesting that Sieu and the other
7 non-shooters bear no responsibility
8 for the tragic outcome, but for the
9 fight of course, no shooting would
10 have taken place. However, I would
11 submit that the circumstances here
12 are significantly mitigated where --
13 when considered against other
14 convictions of this type. Assuming
15 that Sieu's performance within the
16 Department of Corrections has been
17 positive, I would urge you to parole
18 at the earliest possible time."

19 Donald J. Rubright -- Donald G. Rubright, that's
20 R-U-B-R-I-G-H-T, Senior Deputy Public Defender,
21 Orange County. Okay, and you have other letters
22 and some are duplicates and you have other family
23 members providing support. And Raymond Seeto, the
24 brother-in-law, also writes you a supportive
25 letter and he notes that,
26 "Putting a roof over his head won't
27 be a problem. He can stay with his

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1 mother, brother, or sisters. Tom has
2 a large extended family. This is his
3 base of support. Lastly, I beg the
4 Board to look at the facts
5 surrounding his conviction. He was a
6 young -- He was young and naïve."
7 So you have lots of family support and you have
8 lots of job offers and you have people offering
9 you a place to live. And most importantly you
10 have a letter from the Public Defender's Office
11 outlining the case and there's no reason to
12 dispute what he's saying is true and he wrote you
13 a very supportive letter. And I have to say I
14 haven't seen too many letters from the Public
15 Defender's Office in support of parole. And with
16 that we'll go to 3042 Notices. We sent out
17 notices pursuant to Penal Code 3042. We sent
18 those out to different agencies that would have an
19 interest in your case. I do see a letter here
20 from the Orange County Deputy District Attorney's
21 Office and basically what it's saying is that the
22 District Attorney's Office will be attending the
23 life parole consideration hearing, and they have
24 their representative here and at the appropriate
25 time she'll have something to say about your
26 parole suitability. Okay, with that we'll go to
27 questions. Commissioner, do you have any

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1 questions?

2 DEPUTY COMMISSIONER MEJIA: Yes. It looks
3 like you've been attending NA, AA, or self-help
4 since '97?

5 INMATE NGO: I was attending mostly -- I was
6 attending both at the time but I dropped out of AA
7 because I feel that I don't need it because I
8 don't drink, I'm allergic to alcohol. I never
9 drank. And I think that I might -- you know,
10 because of my drug offense, I decided to go to NA
11 to better myself, to learn, so that's why I've
12 been attending NA.

13 DEPUTY COMMISSIONER MEJIA: What have you
14 learned so far?

15 INMATE NGO: To stay sober, to be a better
16 person. Drugs can really harm a person, I mean,
17 change a person, even though you are guilty or
18 not, drugs can just alter your state of mind, you
19 can't function properly using drugs.

20 DEPUTY COMMISSIONER MEJIA: Did they teach
21 the 12-Steps as well?

22 INMATE NGO: Yes.

23 DEPUTY COMMISSIONER MEJIA: Do you remember
24 what -- any of the 12-Steps?

25 INMATE NGO: Yes, I remember all those.

26 DEPUTY COMMISSIONER MEJIA: You remember all
27 of them. Can you give me one?

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1 INMATE NGO: Which one?

2 DEPUTY COMMISSIONER MEJIA: Whichever you
3 recall.

4 INMATE NGO: Number one that I admitted to
5 God, to myself that (inaudible) drugs or alcohol,
6 that our lives will become unmanageable. Two,
7 make a decision to turn our will and our lives
8 over to the care of God (inaudible) carry that
9 out. Three, make decisions, turn our will and our
10 lives over to the care of God and (inaudible).
11 Four, made a searching fearless moral inventory
12 about ourselves.

13 DEPUTY COMMISSIONER MEJIA: How old were you
14 when you were involved in this crime?

15 INMATE NGO: I was 19.

16 DEPUTY COMMISSIONER MEJIA: You were 19.
17 You are how old now?

18 INMATE NGO: I'm 31.

19 DEPUTY COMMISSIONER MEJIA: Let me just --
20 [Thereupon, the tape was turned over.]

21 DEPUTY COMMISSIONER MEJIA: When did you get
22 involved with the gangs, you were 18 then, how old
23 were you when you started with the gang?

24 INMATE NGO: Believe it or not -- gang is a
25 harsh word because like there was only like five
26 or six of us, you know, during that time. We were
27 more friends because I (inaudible) know these

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1 guys, I've been moved there for about a year, and
2 I hang around with them, you know. So to me it's
3 more like a friend more than a gang but because we
4 live at Fullerton they call themselves Fullerton
5 Boys.

6 DEPUTY COMMISSIONER MEJIA: How old were you
7 when you started hanging out with them?

8 INMATE NGO: I think I was 16 or 17, Sir.

9 DEPUTY COMMISSIONER MEJIA: So about two
10 years.

11 INMATE NGO: Yeah, about two years.

12 DEPUTY COMMISSIONER MEJIA: If you get
13 released to the streets, how are you going to get
14 away from the elements of the gang lifestyle?

15 INMATE NGO: Knowing what a gang can do to a
16 person, I have confidence that I can stay away
17 from them, you know, because I learned from my
18 mistakes, that's how I've grown. I know I can
19 deal with problems differently, you know, just
20 staying away, choose better friends, think before
21 I act, everything, what I've learned in here to be
22 a better person.

23 DEPUTY COMMISSIONER MEJIA: No other
24 questions.

25 PRESIDING COMMISSIONER WELCH: Okay, there's
26 one thing in your brief that a lot of it's clothed
27 in legal terminology, but there is one thing that

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1 I think I will put on the record in your defense,
2 it's, "Considering the facts of my personal
3 culpability as established, it is clear that the
4 category --" well, that's not what I'm trying to
5 read. Here it is, the next paragraph says,
6 "Since there are no words adequate
7 enough to express the sincerity of my
8 remorse of the acceptance of
9 responsibility for my past conduct
10 and behavior, I offer the following
11 actions, that I stipulate to the
12 aggravated term of 19 years in
13 accordance with 15CCR243 that I
14 stipulate to whatever other parole
15 conditions that the Board deems
16 necessary upon me."

17 Okay. I was looking for something for your
18 remorse and I guess that's the closest thing I've
19 found there. And under the facts of the crime,
20 starting off where you said, "The facts of the
21 crime shall be discussed with the prisoner to
22 assess determination, the extent of culpability,
23 the Board shall not require the admission --" we
24 already know that. "Furthermore, I fully and
25 truly confess and accept the facts of my personal
26 culpability and responsibility for the life
27 crime." Okay, anyway. Commissioner, District

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1 Attorney, do you have any questions?

2 DEPUTY DISTRICT ATTORNEY CONTINI: Just very
3 briefly. Could the Board ask the inmate, he
4 testified or stated that he made up the name Tiger
5 Mafia because he had TM tattooed on his shoulder.
6 What does TM stand for then?

7 INMATE NGO: My ex-girlfriend's name,
8 Theresa May.

9 DEPUTY DISTRICT ATTORNEY CONTINI: Could the
10 Board inquire of the inmate why he would make up
11 another gang affiliation and tell a police officer
12 that?

13 INMATE NGO: Because at the time I just
14 wanted to throw off the investigator because when
15 I was arrested they knew I was from Fullerton so
16 just (inaudible) I didn't want to be associated
17 with them so I threw them off by making up a name.

18 DEPUTY DISTRICT ATTORNEY CONTINI: Could the
19 Board inquire of the inmate when he and his crime
20 partners were arrested in the State of Washington,
21 he was arrested for possession of stolen property,
22 could the Board inquire of him whether or not he
23 was aware that was not only the murder weapon in
24 his life case but also a nine-millimeter
25 (inaudible) assault pistol that was in the car?

26 INMATE NGO: Both of the weapons don't
27 belong to me, they belonged to my crime partner.

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1 I'd never been to the State of Washington until I
2 drove there myself. I'd never been out of the
3 State of California, period, so --

4 PRESIDING COMMISSIONER WELCH: Did you
5 understand the question?

6 INMATE NGO: She had stated why the weapon
7 was in the car.

8 PRESIDING COMMISSIONER WELCH: She said were
9 you aware.

10 INMATE NGO: Of the gun, yes, I was, Sir.

11 PRESIDING COMMISSIONER WELCH: The other
12 weapon?

13 INMATE NGO: Yes.

14 PRESIDING COMMISSIONER WELCH: Okay.
15 District Attorney.

16 DEPUTY DISTRICT ATTORNEY CONTINI: Could the
17 Board inquire of the inmate, he drove his crime
18 partner and fellow gang members to the State of
19 Washington, correct?

20 INMATE NGO: Yes, that's correct.

21 DEPUTY DISTRICT ATTORNEY CONTINI: And could
22 the Board just finally inquire of the inmate, he
23 indicated he had the 11350 arrest for the drug, in
24 the probation report for this case, indicated that
25 he and some other individual had previously beaten
26 up Hispanic men at a school, is he familiar with
27 that case?

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1 INMATE NGO: I'm wondering (inaudible) that
2 was never brought up, I don't see what it has to
3 do with my case right now. (Inaudible) a fight,
4 everybody was getting in a fight. We were young
5 then.

6 PRESIDING COMMISSIONER WELCH: Okay.

7 INMATE NGO: That was, you know --

8 PRESIDING COMMISSIONER WELCH: Let's backup.
9 District Attorney, would you re-ask the question.

10 DEPUTY DISTRICT ATTORNEY CONTINI: Sure.
11 Would the Board inquire of the inmate, in his
12 probation report for this case, the victim by the
13 last name of Perez was interviewed regarding a
14 physical altercation at a school in which the
15 inmate began the physical altercation and then
16 three of the inmate's companions joined in kicking
17 and punching the victim Perez, alleged to have
18 happened December 14th, 1990. Is he familiar with
19 that assault?

20 INMATE NGO: Yes, I am familiar with it. I
21 was never convicted on anything. I was released.
22 What can I say?

23 PRESIDING COMMISSIONER WELCH: Well, you can
24 tell her the circumstances. I don't think any --

25 INMATE NGO: Well,

26 PRESIDING COMMISSIONER WELCH: --
27 (inaudible) what happened.

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1 INMATE NGO: For that fight I was going to
2 pick up my girlfriend at the school at that time.
3 She was in the agricultural or floral rearranging
4 class. I went over there to pick her up and Mr.
5 Perez, I guess, at that -- you know, tell me, who
6 the hell are you, and then he started cussing me.
7 He don't even know who I am. (Inaudible) what is
8 he doing, you know, what is his business. So I
9 just left it at that and I left, and I was waiting
10 for my girlfriend at the parking lot and he came
11 out and started mad-dogging me.

12 PRESIDING COMMISSIONER WELCH: What does
13 mad-dogging mean?

14 INMATE NGO: It means staring me down and
15 then he asked me who the hell -- you know, F, what
16 are you looking at. I said, what's your problem?
17 So he came over (inaudible) confronted so I just
18 socked him, you know.

19 PRESIDING COMMISSIONER WELCH: You socked
20 him?

21 INMATE NGO: Yes, because he wanted to fight
22 me for some reason so I just was trying to defend
23 myself so I socked him first and that's it.

24 PRESIDING COMMISSIONER WELCH: Okay, all
25 right. District Attorney.

26 DEPUTY DISTRICT ATTORNEY CONTINI: Could the
27 Board just inquire of the inmate whether or not

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1 his three companions that assaulted Mr. Perez on
2 that day were also Fullerton Boys gang members?

3 INMATE NGO: No.

4 PRESIDING COMMISSIONER WELCH: No?

5 INMATE NGO: No, they weren't.

6 DEPUTY DISTRICT ATTORNEY CONTINI: I don't
7 have anything further.

8 PRESIDING COMMISSIONER WELCH: Okay.
9 Counselor, do you have any questions for your
10 client?

11 ATTORNEY SPOWART: I have nothing.

12 PRESIDING COMMISSIONER WELCH: Okay, Mr.
13 Ngo, at this time we go -- at this portion of the
14 hearing we go to closing. We start off with the
15 District Attorney. District Attorney, closing.

16 DEPUTY DISTRICT ATTORNEY CONTINI: The
17 People of the State of California strongly oppose
18 any parole of Mr. Ngo at this time. This case was
19 a cold-blooded murderer of a 15-year-old. Yes,
20 rival gang member, but a 15-year-old when this
21 inmate was 19 years, two years out of high school.
22 He and his friends, after a mad-dogging incident,
23 lie in wait essentially waiting for this young man
24 to walk home from school. In the inmate's version
25 of events to the Board previously, he indicated
26 that he didn't know that a gun was in the car and
27 that at the same breath he indicates that they had

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1 the gun for protection. Neither of those things
2 make any sense in the gang world, and when you are
3 waiting for an individual to assault them, it
4 seems ridiculous to say that you have the gun for
5 protection. Moreover, Mr. -- the victim, the 15-
6 year-old, in the case was walking with another
7 friend when he was first engaged by this inmate
8 and one other person which shows that this inmate
9 was a leader in this attack. There's five
10 individuals involved, he's one of the first ones
11 to go up and start beating the 15-year-old. I
12 just want to touch briefly on Mr. Rubright's
13 letter, the public defender, because he indicates
14 in that letter that -- just give me one moment, he
15 indicates in that letter that this was a wannabe
16 gang and I just have a strong -- strongly disagree
17 with that. This is a gang that had a loaded gun
18 that they used on this 15-year-old. It's also a
19 gang that when they're arrested after fleeing to
20 the State of Washington, has the nine-millimeter
21 stolen gun, both of the guns stolen, both the .22
22 and the nine-millimeter. In addition to that,
23 there's a level of sophistication involved in this
24 crime in that the suspects fled and they burn the
25 car that they were driving, and that's contained
26 in the record. They burn the car that they were
27 driving before taking off to Washington and this

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1 inmate is the one who drove them to Washington.
2 Finally, I would note that although this inmate's
3 criminal history, it was not extensive, he does
4 have the drug offense, and then two years before
5 the killing he has this incident where he and some
6 other fellows are beating up an individual, so
7 there is an escalation of violence in his
8 background there. When he first was housed at the
9 Orange County Jail, he had three incidents in the
10 Orange County Jail which were noted in his
11 probation report, the last was the mutual combat.
12 He's obviously done well in the last few years
13 here, but he does have a couple of -- I believe I
14 saw a couple of 128s in his record, so we're
15 talking 12 years since this incident occurred.
16 Based on the gang nature of it, basically a cold-
17 blooded execution of a 15-year-old boy, we would
18 strongly oppose a parole at this point.

19 **PRESIDING COMMISSIONER WELCH:** Counselor,
20 closing.

21 **ATTORNEY SPOWART:** If we look at Mr. Ngo's
22 entire history, he had no juvenile record. He
23 came from a very good family, an excellent letter
24 from his mother, talking about her other children,
25 their accomplishments. My client graduated from
26 high school. He was attending Fullerton Community
27 College and then Pasadena City College. He

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1 completed 10 units. In other words, he had a
2 stable social history. He was in high school at
3 that time, various ethnic groups, Latinos, Asians,
4 and they would fight, and this happens. He did
5 get in a fight once when he tried to pick up his
6 girl. Now the DA says this shows an escalating
7 pattern. Motivation for the crime was basically a
8 gang fight. He was 19 then and he's 31 now.
9 Excellent parole plans which we've gone over, a
10 place to live, a place to work, good letters of
11 support. Now, this is exactly what I was talking
12 about when I objected. This is a murder second-
13 degree plea. The DA comes up here today says
14 cold-blooded lying in wait. If that was true then
15 the District Attorney's Office was grossly
16 inadequate in the prosecution of my client. Why
17 wasn't he up for life without parole or the death
18 penalty? Come on, give me a break, that is not
19 what happened. He went with his friends, this big
20 gang, five guys, that he went over with and they
21 went over because one of them had gotten in
22 (inaudible) and they went over to have a fight, it
23 was clear. As his trial attorney says, the fight
24 started and later on a guy comes up with a gun and
25 shoots the victim. It wasn't my client. He did
26 not have a gun. He's never been violent. If you
27 look at the Board report and he gives -- he says

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1 he would pose a low degree of threat to the public
2 at this time. This opinion is based on Ngo being
3 immature at the time of the crime and easily
4 influenced by his peers. The crime was episodic
5 in nature. It wasn't planned, it wasn't cold-
6 blooded, it wasn't lying in wait, it was none of
7 those. It was a pure simple these five guys got
8 in a fight. My client was there, he didn't even
9 know they had the gun. He wasn't living in
10 Fullerton at the time, he was living in Pasadena,
11 going to college. His institutional adjustment
12 has been outstanding, two 128(a)'s in the entire
13 time he's been down. No 115s. Where is the
14 violence? Where's the violence? Where's the
15 escalating pattern? There isn't any. He
16 completed IMPACT Workshop program, and if you
17 notice they talk about the IMPACT program it
18 includes anger management, domestic violence, gang
19 violence, murder and sexual assault, it includes
20 all these things. So he's had good therapy there.
21 He's been AA or NA the entire time he's been down.
22 He completed the course of Sexual Transmitted
23 Disease, has excellent work reports, completed the
24 Salesmanship and the Key to Fatherhood, completed
25 the forklift certification. The Board report is
26 low. Now let's look at the psych report, and
27 let's remember, the psych report is the expert

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1 here, and this is low too. The Commissioner read
2 it, based on his complete lack of disciplinary
3 actions while incarcerated, his insight into the
4 negative aspects of gang involvement, and his
5 remorse for his actions, he has expressed remorse,
6 and the psych takes that into consideration, his
7 violence potential within a controlled setting is
8 estimated to be below average relative to this
9 level inmate II population, which is low. If
10 released to the community, his violence potential
11 is estimated to be less than, not average, but
12 less than the average citizen in the community.
13 And he talks about, given his insight, his
14 demonstrated ability to stay out of trouble, his
15 successful development of plans upon release and
16 the support of his family -- and I know -- look
17 again at his plans, he's very detailed. This is a
18 serious young man. He's very serious about
19 wanting to get out. He has clearly worked to get
20 out. He admits what he did. You can't get away
21 from it, he was there, he participated. It was a
22 fight and then there was a gun there. He did not
23 do the shooting. He had no reason to believe that
24 this other guy would shoot anybody, it happened.
25 The point is, we're here now when he's 31 years
26 old not 19. He's been in Coastline Community
27 College, he's preparing himself to get out. He's

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1 paid for his crime. For his part in that crime,
2 he has paid for it. And he's stated, if you find
3 me suitable, give me the highest because I know I
4 shouldn't have been there and I shouldn't have
5 participated in this. Board report low, psych
6 report below average here, less than average. Do
7 you know what that means? Look at anybody walking
8 downtown Fullerton or Pasadena, they're the
9 average Joes. And he, the psych, the
10 professional, is saying my client is no more -- is
11 less dangerous than they are, less dangerous. So
12 how now does he become an unreasonable risk of
13 danger to society. I think not. You know, I'm
14 surprised really, I know it's difficult to get a
15 date on your first initial hearing, but I'm
16 surprised that this man didn't get a date on his
17 initial hearing. I think he should be found
18 suitable today and I'll submit it.

19 **PRESIDING COMMISSIONER WELCH:** Okay, Mr.
20 Ngo, you can make a closing statement or you can
21 let your attorney's statement be your closing
22 statement.

23 **INMATE NGO:** I'd like to make a statement.
24 During my last initial hearing, previous hearing,
25 one of the Commissioners told me that I needed
26 time to understand the nature and circumstances of
27 my crime and my disregard for human life. In my

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1 defense, I would say that it's part of telling the
2 truth because for the last 12 years I've had
3 nothing but time to think about my crime. It's
4 with me every day, it's a reminder every day. I
5 know nothing I can say or do can bring back Mr.
6 Angel Gonzalez. I know I caused a lot of harm to
7 his family, anyone involved, but there's nothing I
8 can say or do at this point to ever change the
9 fact. You know, I know what I did, or lack of on
10 my part is, I could have maybe have stopped this
11 from happening if I was smart enough to act upon
12 it because I was young and naïve. I know that's
13 not an excuse, but looking back now I see what I
14 could have done if I'd have known better. I took
15 full complete responsibility for my action. I
16 can't take responsibility for others, only for
17 myself. I know I'm partly responsible that's why
18 I know I deserve to do some time, but I have done
19 my time. I have done everything you have asked me
20 to do, I've gone beyond my scope of
21 (indiscernible) to better myself. All I ask is
22 that you give me a fair chance, a second chance.
23 I know I have to prove to you that I can be a law-
24 abiding citizen, but if you should not find me
25 suitable at this time, I'd ask you, urge you, to
26 please specify what exactly I need to do in order
27 to be found suitable at my future hearings.

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1 That's all I ask of you. Thank you.

2 PRESIDING COMMISSIONER WELCH: Okay, thank
3 you very much for our comments. We'll take a
4 recess.

5 R E C E S S

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CALIFORNIA BOARD OF PRISON TERMS

D E C I S I O N

DEPUTY COMMISSIONER MEJIA: Okay, we're back on record for our decision.

PRESIDING COMMISSIONER WELCH: Okay, Mr. Ngo, we have a decision. The Panel reviewed all the information received from the public and relied on the following circumstances in concluding -- could you close the door, please, -- in concluding that the prisoner is not suitable for parole and would pose an unreasonable risk of danger to society or a threat to public safety. One, this crime was carried out in an especially cruel and callous manner. Gang related violence in a community is always cruel and callous violence. Actually there was multiple victims attacked, one was killed, one ran away and was able to escape. The offense was carried out in a dispassionate, it was a calculated manner. The victim was abused, he was beaten and then he was shot. The offense was carried out in a manner that demonstrates an exceptionally callous disregard for another human being. The motive for the crime was inexplicable or very trivial in relationship to the offense. Any gang-related activity in our community is (inaudible) and

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1 inexplicable type of behavior, it's the type of
2 behavior that certainly cannot be condoned in any
3 well-ordered society. The conclusion was drawn
4 from the Statement of Facts wherein on 9-18-92
5 Angel Gonzalez who was beaten and shot to death
6 near Fullerton High School as he was walking away
7 -- as he was walking home. The circumstances
8 surround this crime, apparently the prisoner and
9 some of his gang members had been at a McDonald's.
10 There was a stare down contest and apparently some
11 words was exchanged. The prisoner and his crime
12 partners waited for the victim as he was walking
13 home and a fight ensued and he was shot and killed
14 with a .22 caliber handgun. Mr. Angel Gonzalez,
15 aged 15, lost his life over a very, very trivial
16 matter, over a matter that really cheapens human
17 life, the gang related -- the gang mentality that
18 occurs in our cities. The prisoner really did not
19 have an escalating pattern of criminal conduct.
20 He did have one contact with law enforcement
21 agency. He has -- well, two contacts with law
22 enforcement agencies, one was for a controlled
23 substance and one was for stolen property
24 including the instant offense, so he did not have
25 a major record of criminal history or an
26 escalating pattern of violent type of behavior.
27 SIEU NGO J-07024 DECISION PAGE 2 8/3/04

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1 Under unstable social history, other than the
2 prisoner's gang activity or involvement in gang
3 activity to whatever extent it was. The Board
4 have no reason to disbelieve the public defender
5 who detailed from his perspective what had
6 occurred, so it does not appear that the prisoner
7 was heavily into gang activity, criminal type of
8 behavior. Also under unstable -- it appears that
9 the prisoner did have a stable home environment,
10 the letters from the family are very impressive in
11 terms of the type of support he have in the
12 community. The prisoner has programmed in an
13 acceptable manner. Recent psychological report
14 shows that the prisoner is making progress, shows
15 that his level of dangerousness both in a
16 structured environment and non-structured
17 environment is reduced. He's on the right track
18 and he is making progress. Certainly from a
19 psychological perspective we feel that the
20 prisoner is making progress. Dr. Zika is the one
21 that prepared this report. However, we are going
22 to request a new psychological evaluation for the
23 prisoner's next hearing. Under parole plans,
24 certainly the prisoner have parole plans, lots of
25 support in the community, job offers, residential
26 plan. The Hearing Panel notes that in response to
27 SIEU NGO J-07024 DECISION PAGE 3 8/3/04

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1 Penal Code 3042 Notices, the Deputy District
2 Attorney from Orange County spoke in opposition.
3 The Panel makes the following findings: The Panel
4 finds that the prisoner needs to continue to
5 participate in the kinds of programs that he's
6 participating in, to continue to make progress,
7 continue to participate to the extent that he will
8 be able to face, understand, and cope with
9 stressful situations in a nondestructive manner.
10 Until the Board feels that enough progress is
11 made, the prisoner continues to be unpredictable
12 thereby presents some amount of threat. However,
13 there are some things that we certainly want to
14 commend him for. The prisoner's disciplinary
15 behavior certainly is not -- is something that we
16 certainly want to give him some accolades for and
17 encourage him to continue in his self-help
18 programs that he's involved in, his educational
19 programs that he's involved in, all of those kinds
20 of things we think is very significant and we want
21 to continue to -- him to continue in that way.
22 However, those positive aspects at this time does
23 not outweigh the factors of unsuitability. Now
24 your parole is going to be denied for one-year
25 this time and we encourage you to continue to
26 remain disciplinary free, continue to explore your
27 SIEU NGO J-07024 DECISION PAGE 4 8/3/04

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1 culpability in the crime, continue to participate
2 in self-help programs and other type of positive
3 kinds of programs, educational programs, as they
4 maybe available to you. There again we want the
5 clinicians to look at your violence potential in
6 the free community when they complete the
7 psychological evaluation, whether there's a
8 significant problem with alcohol and drugs as it
9 relates to the commitment offense into which you
10 have -- and I think this is one area that we
11 certainly want them to take a look at, the extent
12 to which you have explored your commitment offense
13 and come to terms with the underlying causative
14 factors. That concludes the reading of the
15 decision. And personally I think you're making
16 progress, and you asked specifically what it is
17 that you need to do. You need to continue to do
18 the things that you're doing, you need to continue
19 to participate in self-help programs, continue to
20 participate in educational programs, continue to
21 explore the crime that you were committed for and
22 develop greater insight into it. And I think
23 you're on the right track. I think you'll get a
24 parole date in the not too distant future.
25 Commissioner, comments?

26 DEPUTY COMMISSIONER MEJIA: Good luck to
27 SIEU NGO J-07024 DECISION PAGE 5 8/3/04

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1 you.

2 INMATE NGO: Thank you.

3 DEPUTY COMMISSIONER MEJIA: Keep up the good
4 work.

5 PRESIDING COMMISSIONER WELCH: Good luck to
6 you, Mr. Ngo. That concludes the hearing at
7 approximately 1500 hours.

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23 PAROLE DENIED ONE YEAR

24 THIS DECISION WILL BE FINAL ON: DEC -1 2008

25 YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT
26 DATE, THE DECISION IS MODIFIED.

27 SIEU NGO J-07024 DECISION PAGE 6 8/3/04

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CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, WENDY THOMAS, a duly designated transcriber, CAPITOL ELECTRONIC REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 through 63, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY at SOLEDAD, CALIFORNIA in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of SIEU NGO, CDC No. J-07024, on AUGUST 3, 2004 and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated August 19, 2004 at Sacramento County, California.

Wendy Thomas
Wendy Thomas
Transcriber
CAPITOL ELECTRONIC REPORTING

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EXHIBIT D

June 23, 2005

Board of Prison Terms
CTF Soledad
P.O. Box 686
Soledad, CA 93960

Re: Sieu Phong Ngo, CDC # J07024
Parole Hearing

Dear Sirs:

I represented Mr. Ngo in the case which sent him to prison. I have been a criminal defense attorney for almost thirty years and have represented over 40 persons accused of homicide. I do not see my clients through rose colored glasses. However, the circumstances of Sieu's case are unusual enough that I feel compelled to make a statement on his behalf.

At the time I represented him, Sieu was a very likeable young man with a minor criminal record. To my recollection he had no convictions for any crimes of violence. The incident in question was very different from the typical "gang case" and the facts are worth sketching for your review.

Sieu and his friends were a "wanna be" type gang who did not really have a significant history or established turf in Orange County. On the day of the incident some of Sieu's friends, by chance, went to the McDonald's which was near Fullerton High School in northern Orange County. Sieu was not present at the time.

One of Sieu's friends got in a staring match with the decedent and some of his friends, who were members of "Tokertown," a long established Hispanic gang in Fullerton.

Essentially, the "Tokertown" group told Sieu's friends that they were not welcome in Fullerton (where some of them already lived) and they should get out of town.

Angered by this, Sieu's friends decided to confront the decedent's group after school got out that day. Sieu was called to help out in case they should be outnumbered. Their group waited after school and confronted the decedent and one of his friends about two blocks south of Fullerton High School (**not on school grounds**).

From all appearances this was intended to be a fist fight. Sieu, and the friend who'd been in the stare-down, approached the decedent and another young man who were walking on a sidewalk. A fist fight is how it started. However, the decedent's friend fled just after the punching began and that left Sieu and his friend fighting the decedent who was significantly larger than either of them. Of course, this was unfair, but nothing at this point suggested that this was intended to be a homicide.

While the fist fight was ongoing a third member of the group Sieu was part of ran forward to the scene. While the fight was in still in progress he reached around Sieu and shot the decedent, killing him and narrowly missing Sieu. Sieu and his group then fled, ultimately being arrested out of state.

Evidence was received to show that Sieu and his friends knew that a gun was in the car. However there was no evidence to show that there was a plan to use it. Based upon the theory of foreseeable consequences, Sieu and several co-defendant's were convicted or pled guilty to murder. **Sieu was not the shooter and no evidence existed to show that he suggested, encouraged or aided or abetted the shooting in any way.**

After the shooting Sieu angrily confronted the shooter, demanding to know "why" he brought out the gun and asserting that he (Sieu) didn't know the gun was going to be used.

In summary, this was not a "drive by" or similar gang crime where everyone knew or legitimately should have known that death or serious bodily injury was intended.

On the contrary, this appeared to be an impulsive act by one member of the group which, due to the rest of the circumstances, swept them all up by way of derivative liability.

I am not suggesting that Sieu and the other non-shooters bear no responsibility for the tragic outcome. But for the fight, of course, no shooting would have taken place. However, I would submit that the circumstances here are significantly mitigated when considered against other convictions of this type.

Assuming that Sieu's performance within the department of corrections has been positive, I would urge his parole at the earliest possible time.

Sincerely,

Donald G. Rubright
Senior Deputy Public Defender
Orange County, Ca
(949) 249-5060

EXHIBIT E

MENTAL HEALTH EVALUATION FOR THE BOARD OF PRISON TERMS
(REVISED AUGUST 1998)
PAROLE CONSIDERATION HEARING
APRIL 2002 LIFER CALENDAR

CORRECTIONAL TRAINING FACILITY, SOLEDAD
JANUARY 23, 2002

This is the second mental health evaluation for the Board of Prison Terms on inmate Sieu Phong Ngo, CDC# J-07024. This report is the product of a personal clinical interview of the inmate, conducted on 01/23/02, as well as a review of his Central file and medical record. This clinical interview and a review of all pertinent documents were for the express purpose of preparing this report. Prior to today's interview, I had no previous contact with this inmate.

PSYCHOSOCIAL ASSESSMENT

I. IDENTIFYING INFORMATION:

Inmate Ngo is a 28-year-old, single, Vietnamese male who was born on 05/18/73. He was born in Vietnam and moved to the United States in 1979 with his family, where they settled in Los Angeles. He has multiple tattoos on his arms, as well as scars from a suicide attempt when he was 16. He denies the use of any nicknames or aliases.

II. DEVELOPMENTAL HISTORY:

Inmate Ngo was born in Vietnam. His family moved to the United States in 1979. They settled in Los Angeles, where they remain to this day. The inmate has one older brother, two older sisters, one younger brother, and one younger sister. They were raised by both parents.

His father died in 1996 while the inmate was incarcerated, but the inmate reports that he is still in contact with his siblings and his mother.

He denies any history of birth defects or abnormalities of developmental milestones, a history of cruelty to

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NGO, SIEU PHONG
CDC NUMBER: J-07024
BPT MENTAL HEALTH EVALUATION
PAGE TWO

animals, a history of arson, any significant childhood medical history, or a childhood history of physical or sexual abuse as either a perpetrator or a victim.

III. EDUCATIONAL HISTORY:

Inmate Ngo graduated from high school and attended one year of college, studying general education, prior to his incarceration. In high school, he relates that he was in English as a Second Language classes for some time. Chinese is his primary language, although he speaks very fluent English at this time. He reported that he had some reading problems, probably related to English being his second language at the time.

Since his incarceration, he has been studying vocational, self-paced, business courses. He intends to finish college.

IV. FAMILY HISTORY:

Inmate Ngo speaks of his family in largely positive terms. He states that he is the only one in his family who has a criminal record. There is no family history of mental illness or criminality, other than his. He also denies a family history of alcohol or drug abuse.

V. PSYCHOSEXUAL DEVELOPMENT AND SEXUAL ORIENTATION:

Inmate Ngo states that he is a heterosexual male. He denies any history of high-risk sexual behavior or sexual aggression.

VI. MARITAL HISTORY:

Inmate Ngo has never been married and has no children. He does have a female friend whom he corresponds with, but who does not visit. He did have a girlfriend prior to his incarceration. He reports normal sexual relations.

VII. MILITARY HISTORY:

The inmate denies any history of military service.

NGO, SIEU PHONG
CDC NUMBER: J-07024
BPT MENTAL HEALTH EVALUATION
PAGE THREE

VIII. EMPLOYMENT/INCOME HISTORY:

Inmate Ngo was quite young at the time of his commitment offense. However, he had worked at odd jobs in the fast food industry.

Since his incarceration, he has been a clerk. The works chronos in his Central file show that he has been a satisfactory worker in job attendance, quality and quantity. He has learned a couple of job skills, both in cooking and in upholstery, which he intends to continue if granted parole.

IX. SUBSTANCE ABUSE HISTORY:

Inmate Ngo readily acknowledges having tried cocaine once. He reports that the first time he tried it, he was caught and ordered to attend a diversion class for drug addiction. Previous mental health evaluations for the Board of Prison Terms have recommended that he be involved in Alcoholics Anonymous and Narcotics Anonymous. However, the inmate feels that he never really had a drug or alcohol problem, although he does currently attend Alcoholics Anonymous.

X. PSYCHIATRIC AND MEDICAL HISTORY:

Inmate Ngo reports one incident of psychiatric illness, in which he states that when he was 16 years old, he tried to kill himself by cutting his arms. He reports that his family life and personal problems felt overwhelming at the time. He states that he has not suffered from depression or had any suicidal thoughts since that time. He has had no contact with the mental health system since that time, either outside or inside of prison.

He denies any significant medical history, other than mentioned above. He denies a history of serious accidents or head injuries, a history of suicidal behavior, or a history of seizures or other neurological conditions. He is taking no medications.

NGO, SIEU PHONG
 CDC NUMBER: J-07024
 BPT MENTAL HEALTH EVALUATION
 PAGE FOUR

XI. PLANS IF GRANTED RELEASE:

Inmate Ngo states that if he is paroled, he would be fully supported by his family, and would use the money he has earned as a clerk to start his own business, either in the upholstery or restaurant business. He does acknowledge that he is determined not to have any gang affiliation. He shows a good deal of insight into the negative aspects of gang involvement, which he regrets to this day.

CLINICAL ASSESSMENT

XII. CURRENT MENTAL STATUS/TREATMENT NEEDS:

Inmate Ngo appears to be his stated age of 28. He was appropriately dressed and groomed. He was calm, cooperative, coherent and alert during the entire interview. He was open in his conversation and emphasized throughout the interview his recognition that gang affiliation had only resulted in injury to himself and to those around him. His mood was sober, but his range of affect was good. His speech, flow of thought and affect all appeared to be within the normal range. His intellectual functioning was estimated to be within the average range. There was no evidence of a mood or thought disorder. His judgment appeared to be sound. He showed significant insight into his commitment offense, as well as some recognition that there is no guarantee he will be paroled at this time by the Board of Prison Terms.

CURRENT DIAGNOSTIC IMPRESSIONS (DSM-IV):

AXIS I: No Contributory Clinical Disorder.
 AXIS II: Deferred.
 AXIS III: No Contributory Physical Disorder.
 AXIS IV: Long-term incarceration.
 AXIS V: Global Assessment of Functioning (GAF) = 90.

There is no evidence that inmate Ngo currently suffers from any psychiatric illness, although he does recognize that in his early youth he was vulnerable to

NGO, SIEU PHONG
CDC NUMBER: J-07024
BPT MENTAL HEALTH EVALUATION
PAGE FIVE

depression and was tempted by consciousness-altering substances. In consideration of the fact that he has received no CDC-115 violations during his entire incarceration, it would appear that he has, at least in this controlled setting, been able to manage his behavior and remain incident-free.

XIII. REVIEW OF LIFE CRIME:

According to inmate Ngo, his offense for which he was convicted and sentenced to 16 years to life was P.C. 187-A, Second Degree Murder, with enhancement P.C. 12022, vicariously armed with a gun.

The inmate stated that he agreed with the version of the crime given in his Central file, the verdict and the sentencing. However, he did state that no one intended to kill the victim, and that their intent was only to beat him up. He had past prior offenses, which included a two-year drug diversion, as referred to earlier in this report. He has had one previous BPT evaluation.

XIV. ASSESSMENT OF DANGEROUSNESS:

- A. Inmate Ngo's report agrees in all details with the information given in the Central file and medical record with respect to his prior history as a person who attempted to use cocaine and was affiliated with gangs, which resulted in his current offense. Based upon his complete lack of disciplinary actions while incarcerated, his insight into the negative aspects of gang involvement, and his remorse for his actions, his violence potential within a controlled setting is estimated to be below average relative to this Level II inmate population.
- B. If released to the community, his violence potential is estimated to be less than the average citizen in the community, given his insight, his demonstrated ability to stay out of trouble, his successful development of plans upon release, and the support of his family.

NGO, SIEU PHONG
CDC NUMBER: J-07024
BPT MENTAL HEALTH EVALUATION
PAGE SIX

- C. Clearly, the most significant risk factor for this inmate as a precursor to violence or a return to criminal behavior would be his reinvolvement with others having a criminal history and/or gang members, the abuse of alcohol and/or drugs, and isolation from his family members.

XV. CLINICIAN OBSERVATIONS/COMMENTS/RECOMMENDATIONS:

- A. This inmate is competent and responsible for his behavior. He has the capacity to abide by institutional standards and has done so during his entire incarceration period.
- B. This inmate does not have a mental health disorder which would necessitate treatment either during his incarceration period or following parole.
- C. As this man has spent ten years in prison, I would recommend, should he be paroled:
- 1) Abstinence from all alcohol and/or use of any controlled substance.
 - 2) Frequent monitoring for substance abuse.
 - 3) If at all possible, he should be relocated so he is near his family.
 - 4) He should make frequent reports to his parole officer concerning his vocational progress and goals. The structure of the institution has, inevitably, to some extent, served to diminish his own self-reliance, and the process of reporting in and setting validating goals might be helpful in assisting him in establishing, perhaps for the first time in his life, a real sense of self-reliance and a positive prosocial sentence.
 - 5) Due to his family's commitment to supporting him upon his release, his projected level of

NGO, SIEU PHONG
CDC NUMBER: J-07024
BPT MENTAL HEALTH EVALUATION
PAGE SEVEN

success in the community, if granted a date for
parole, is seen at this time to be better than
average.

C. SAINDON, Ph.D.
Staff Psychologist
CORRECTIONAL TRAINING FACILITY, SOLEDAD



BILL ZIKA, Ph.D.
Senior Supervising Staff Psychologist
CORRECTIONAL TRAINING FACILITY, SOLEDAD



CS/gmj

D: 01/23/02
T: 01/31/02

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EXHIBIT F

Life Prisoner
CFBW 3194

LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
AUGUST 2005 CALENDAR

NGO, SIEU

J-07024

INMATE COPY

I. COMMITMENT FACTORS:

- A. Life Crime: PC 187, Murder 2nd with PC 12022(A)(1), Use of Weapon in commission of a felony. Orange County Superior Court Case #C99109. Term: 15 years to Life plus 1 year enhancement. MEPD: 5/24/03. Victim: Angel Ganzales, 15 years old. Inmate Ngo was received in the California Department of Corrections on 2/1/94.

1. Summary of Crime: All relevant documents from the previous hearing including the transcripts have been considered and that information appears valid. The writer has no further information to add.
2. Prisoner's Version: Remains the same as stated in the previous hearing.
3. Aggravating/Mitigating Circumstances:
 - a. Aggravating Factors: Remains the same as stated in the previous hearing.
 - b. Mitigating Factors: Remains the same as stated in the previous hearing.

- B. Multiple Crime(s): N/A.

1. Summary of Crime: N/A.
2. Prisoner's Version: N/A.

II. PRECONVICTION FACTORS:

- A. Juvenile Record: Documents from the previous hearing have been considered and that information remains valid.
- B. Adult Convictions and Arrests: Documents from the previous hearing have been considered and that information remains valid.

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COPY TO INMATE ON
JUN 02 2005

LIFE PRISONER EVALUATION REPORT
 PAROLE CONSIDERATION HEARING
 AUGUST 2005 CALENDAR

2

- C. Personal Factors: Documents from the previous hearing have been considered and that information remains valid.

III. POSTCONVICTION FACTORS:

- A. Special Programming/Accommodations: None.
- B. Custody History: Documents from the previous hearing(s) have been considered and that information remains valid. Since his last Board of Prison Terms (BPT) hearing on 8/5/04, in which his parole was denied for one (1), inmate Ngo has remained at the Correctional Training Facility (CTF), in the General Population (GP). He has retained his custody at Medium A with a Preliminary/behavior classification score of 0 and a Mandatory Minimum Placement score of 19 (the change is due to the revised classification scoring system effective 10/15/02).
- C. Therapy and Self-Help Activities: Refer to the Postconviction Progress Report for details.
- D. Disciplinary History: Refer to the Disciplinary Sheet for details.
- E. Other:

IV. FUTURE PLANS:

- A. Residence: Inmate Ngo plans to live with his mother, Huynh Phong Ngo at 709 Triana Street, Monterey Park, California, 91754 with telephone number 626-282-3156. In addition, most, if not all of his relatives has offered housing, employment, financial, moral and social assistance to inmate Ngo, if and when he is released to parole.
- B. Employment: Inmate Ngo is in receipt of two (2) Certificates of Completion, Vocational Automotive Refinishing (9/12/97) and Upholstery (2/27/97), both employable trades. Inmate Ngo has been a Culinary Storekeeper Office Aide over two (2) years, another employable trade. His relatives are offering immediate employment opportunities in their liquor and restaurant business, if and when he is released to parole.
- C. Assessment: Inmate Ngo does not have any prior record of criminal conduct (considering the recency and frequency of prior crimes) and the circumstances of the instant offense, ~~he~~ does not appear to be criminally minded and has a good insight into himself. He has been able to maintain himself relatively disciplinary free (of serious rules violation report) since 2/12/00. In 9/12/97 and 2/27/97, he

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LIFE PRISONER EVALUATION REPORT
PAROLE CONSIDERATION HEARING
AUGUST 2005 CALENDAR

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acquired two (2) Certificates of Completion, Vocational Automotive Refinishing and Upholstery, respectively. In addition, he is in the process of acquiring college credits via correspondence from Coastline Community College with the hope that said credits will be transferable to a university and eventually obtain a degree in Biology. Finally, he has achievable and realistic parole plans.

- V. USINS STATUS: Inmate Ngo was born on 5/18/73 in Vietnam, immigrated to the United States of America (USA) and later became a naturalized citizen of the USA.

VI. SUMMARY:

- A. Prior to release the prisoner could benefit from:
- (1) Participate in self-help programs;
 - (2) Remain disciplinary free;
 - (3) Earn positive chronos;
- B. This report is based upon 3 hours of Central File research, an interview with inmate Ngo and incidental contact with the prisoner during this period of review.
- C. Inmate Ngo reviewed his Central File pursuant to in re: Olson on 5/31/05.
- D. No accommodation was required per the Armstrong vs. Davis BPT Parole Proceedings Remedial Plan (ARP) for effective communication.

BOARD OF PRISON TERMS


STATE OF CALIFORNIA

LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

- ☐ DOCUMENTATION HEARING
- ☒ PAROLE CONSIDERATION HEARING
- ☐ PROGRESS HEARING

INSTRUCTIONS

TO CDC STAFF: DOCUMENT EACH 12-MONTH PERIOD FROM THE DATE THE LIFE TERM STARTS TO PRESENT
 TO BPT STAFF: FOR EACH 12-MONTH INCREMENT APPLY THE GUIDELINES UNDER WHICH THE PAROLE DATE WAS ORIGINALLY
 ESTABLISHED, i.e., 0-2 MONTHS FOR PBR AND 0-4 MONTHS FOR BPT. SEE BPT §§2290 - 2292, 2410 AND 2439.

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
4/24/04 to 6/8/05 (Present)			<p>PLACEMENT: Remains housed at CTF, in the GP.</p> <p>CUSTODY: Remains at Medium A.</p> <p>ACADEMIC: Graduated from Fullerton High School, Orange County in 1992. Additionally, inmate Ngo has been and is currently enrolled in an Independent Study Program through Coastline Community College (semester ending May, 2005).</p> <p>WORK: Remains assigned as a Culinary Storekeeper Office Aide receiving satisfactory grades per the Work Supervisor's Report (CDC101).</p> <p>VOCATION: Inmate Ngo is in receipt of two (2) Certificates of Completion, Vocational Automotive Refinishing (9/12/97) and Upholstery (2/27/97). Additionally, he is in the Vocational Data Processing waiting list.</p> <p>GROUP ACTIVITIES: None noted this period.</p> <p>PSYCH TREATMENT: None noted this period.</p> <p>PRISON BEHAVIOR: Disciplinary free of serious rules violation reports since 2/12/00.</p> <p>OTHER: Inmate Ngo continues to better himself year after year.</p>
CORRECTIONAL COUNSELOR'S SIGNATURE			DATE
F. I. DeGUZMAN 			6/8/05

NGO, SIEU PHONG

J07024

CTF

AUG/2005

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DISCIPLINARY SHEET

CDC 128A'S:

02/11/00	CTF	Window covering
04/01/97	LAC	Failed to respond to ducat

CDC 115's:

None

NGO, SIEU

J07024

CTF

AUG/2005

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EXHIBIT G

LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
MAY 2004 CALENDAR

NGO, SIEU PHONG

J-07024

I. COMMITMENT FACTORS:

A. Life Crime: Murder second, PC 187, with use of a firearm PC 12022(A) (1). San Francisco County case #c99109, sentence: 15 years to life plus one year enhancement. MEPD: 5-24-03. Victim: Angel Gonzalez, age 15 years old. Received by CDC on 2-1-94.

1. Summary of Crime: All relevant documents from the previous hearings including the transcripts have been considered and that information appears valid and the writer has no further information to add.
2. Prisoner's Version: Remains the same as stated in the previous hearing.
3. Aggravating/Mitigating Circumstances:
 - a. Aggravating Factors: Remains the same as stated in the previous hearing.
 - b. Mitigating Factors: Remains the same as stated in the previous hearing.

B. Multiple Crime(s): None.

1. Summary of Crime: None.
2. Prisoner's Version: None.

II. PRECONVICTION FACTORS:

- A. Juvenile Record: Remains the same.
- B. Adult Convictions and Arrests: Remains the same.
- C. Personal Factors: Remains the same.

NGO, SIEU, PHONG

J-07024 CTF-SOLEDAD

MAY 2004

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LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
MAY 2004 CALENDAR

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III. POSTCONVICTION FACTORS:

- A. Special Programming /Accommodations: None.
- B. Custody History: Documents from the previous hearing have been considered and that information remains valid. During the period of time since the last hearing (5-13-02), Ngo's behavior has been positive, in that he has remained disciplinary free and maintained a stable work program in his assignment as a culinary warehouse worker.
- C. Therapy and Self-Help Activities: Ngo is involved in an Independent Study Program through Coastline Community College. He participates in the Narcotics Anonymous Program. He completed the 13 week IMPACT workshop.
- D. Disciplinary History: Ngo received only two CDC 128A's. See Disciplinary Sheet for details.
- E. Other: An Initial Parole Consideration Hearing was held on 5-13-02. The BPT recommended:
 - 1. Remain disciplinary free.
 - 2. Upgrade education.
 - 3. Continue to participate in self-help and therapy:The BPT denied parole for an additional two years.

IV. FUTURE PLANS:

- A. Residence: Ngo plans to reside with his mother, Phuong Hungk Ngo, at 709 Triana Street, Monterey Park, California, (714)827-7832.
- B. Employment: Ngo plans to work at the family liquor store which is owned by his sister, Julie Seeto, in Anaheim. His uncle, Calvin Ung owns a restaurant in Anaheim and has offered Ngo a job as a cook.
- C. Assessment: Ngo's chances of a successful parole are very good. He has concrete parole plans and letters of support from his family.

V. USINS STATUS: No holds.

VI. SUMMARY:

LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
MAY 2004 CALENDAR

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- A. Considering the commitment offense, minimal prior arrest record and good prison adjustment, the writer believes Ngo would probably pose a low degree of threat to the public at this time, if release from prison. This opinion is based on Ngo being immature at the time of the crime and easily influenced by his peers. The crime was episodic in nature. Ngo has a limited criminal history and has not shown a pattern of violence in custody.
- B. Prior to release, Ngo could benefit from remaining disciplinary free and upgrading his education.
- C. This board report is based upon a one hour interview, incidental contact in the housing unit and a through review of the Central File lasting on hour.
- D. Ngo declined the opportunity to review the Central File on 1-20-04 (see CDC 128B Chrono).
- E. No accommodation was required per the Armstrong vs. Davis BPT Parole Proceeding Remedial Plan for effective communication.

DISCIPLINARY SHEET

CDC 128A's:

2-11-00	CTF	Window covering.
4-1-97	LAC	Failed to respond to medical ducat.

CDC 115's:

None.

LIFE PRISONER EVALUATION REPORT
SUBSEQUENT PAROLE CONSIDERATION HEARING
MAY 2004 CALENDAR

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M. Rubio 4-23-04
M. Rubio Date
Correctional Counselor I

L.R. Baker, CCI (A) 4-23-04
L.R. Baker Date
Correctional Counselor II

J.L. Clancy 4-27-04
J.L. Clancy Date
Facility Captain

4) D. S. Leverage 4-28-04
D. S. Leverage Date
Classification and Parole Representative

BOARD OF PRISON TERMS


STATE OF CALIFORNIA

LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

- ☐ DOCUMENTATION HEARING
- ☒ PAROLE CONSIDERATION HEARING
- ☐ PROGRESS HEARING

INSTRUCTIONS

TO CDC STAFF: DOCUMENT EACH 12-MONTH PERIOD FROM THE DATE THE LIFE TERM STARTS TO PRESENT
 TO BPT STAFF: FOR EACH 12-MONTH INCREMENT APPLY THE GUIDELINES UNDER WHICH THE PAROLE DATE WAS ORIGINALLY
 ESTABLISHED, ie., 0-2 MONTHS FOR PBR AND 0-4 MONTHS FOR BPT. SEE BPT §§2290 - 2292, 2410 AND 2439.

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
5/02 TO 4/2003			PLACEMENT: CTF. CUSTODY: MED A. VOC. TRAINING: None. ACADEMICS: Enrolled in an Independent Study Program. WORK RECORD: Assigned to the culinary warehouse. GROUP ACTIVITIES: Completed the IMPACT workshop attended Narcotics Anonymous meetings. PSYCH. TREATMENT: None. PRISON BEHAVIOR: No disciplinaries. OTHER: None.
CORRECTIONAL COUNSELOR'S SIGNATURE			DATE
			4-23-04

Ngo, Sieu

J-07024

CTF-SOLEDAD

May/2004

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BOARD OF PRISON TERMS

STATE OF CALIFORNIA

CONTINUATION SHEET: LIFE PRISONER: POSTCONVICTION PROGRESS REPORT

POSTCONVICTION CREDIT			REASONS
YEAR	BPT	PBR	
5/2003 To Present			PLACEMENT: CTF. CUSTODY: MED A. VOC. TRAINING: None. ACADEMICS: Enrolled in an Independent Study Program. WORK RECORD: Assigned to the culinary warehouse. GROUP ACTIVITIES: Participated in Narcotics Anonymous meetings. PSYCH. TREATMENT: None. PRISON BEHAVIOR: No disciplinaries. OTHER: None.

ORDER:

☐
☐

 BPT date advanced by months.
 PBR date advanced by months.

☐
☐

 BPT date affirmed without change.
 PBR date affirmed without change.

SPECIAL CONDITIONS OF PAROLE:

☐
☐

 Previously imposed conditions affirmed.
 Add or modify

☐

Schedule for Progress Hearing on appropriate institutional calendar

Ngo, Sieu

J-07024

CTF-SOLEDAD

May/2004

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

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EXHIBIT H

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THE PRISONER EVALUATION REPORT
INITIAL PAROLE CONSIDERATION HEARING
APRIL 2002 CALENDAR

NGO, SIEU PHONG

J07024

I. COMMITMENT FACTORS:

A. Life Crime: Murder Second, PC 187, with Use of a Firearm, PC 12022(A)(1). San Francisco County Case #C99109. Sentence: 15 years to Life plus one year enhancement. MEPD: 5/24/03. Victim: Angel Gonzalez, age 15 years old. Received by CDC on 2/1/94.

1. Summary of Crime: On 9/18/92, Angel Gonzalez was beaten and shot to death near Fullerton High School as he was walking home after school. An investigation revealed that earlier in the day the victim, a member of the "Fullerton Tokers Town" a Latin gang and member of "Fullerton Boyz" an Asian gang, were at a McDonald's restaurant, near the high school. The victim and No Muhamed had a confrontation with each claiming their respective gang affiliations. After this non-physical altercation, the group of Asians which at the time included Sieu Phong Ngo, obtained a firearm. Ngo and the Asian gang members returned to the school where they waited for Gonzalez. As he walked home he was attacked and beaten. During the physical altercation the victim was shot one time in the back by Usumang Muhamed. The group of five Asian gang members including Ngo fled the area after the shooting. Angel Gonzalez died at the scene as a result of the gunshot wound. Ngo, Jimmy Dao and Asat Cham fled to the state of Washington. They were subsequently apprehended there, and the murder weapon, a stolen .22 caliber handgun was recovered in the vehicle. Information obtained from POR pages 3 & 4.

2. Prisoner's Version: Ngo explained that earlier in the day his group had a confrontation with the victim. Subsequently, he and his group went to an arcade to play games. At that time his companions took possession of a weapon. Ngo stated that he did not see the gun until he was in the vehicle, it was located under the passenger's seat. He and his companions returned to Fullerton High School where they parked and went to look for Gonzalez. Ngo explained that they had gun for protection in case someone else happened to have a weapon. They found Gonzalez, and he and his group started fighting with the victim. During the fight Ngo heard two shots. Ngo explained that no one intended to kill the victim. They just planned to beat him up because Gonzalez had told them to "get out of town," and this made Muhamed angry. Ngo realizes that his behavior was a mistake. Ngo drove his two companions to Washington because

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NGO, SIEU PHONG

J07024

CTF-Soledad

APR/2002

LIFE PRISONER EVALUATION REPORT
INITIAL PAROLE CONSIDERATION HEARING
APRIL 2002 CALENDAR

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Muhammed told him that he knew someone who would give them shelter.
Ngo feels sorry for the victim's family.

B. Aggravating/Mitigating Circumstances:

1. Aggravating Factors:

- a. The victim was particularly vulnerable in that he was outnumbered.
- b. The crime was racially motivated.
- c. The inmate had an opportunity to cease but continued with the crime.
- d. The crime involved use of a firearm.

2. Mitigating Factors: The inmate has a minimal history of criminal behavior.

II. PRECONVICTION FACTORS:

A. Juvenile Record: None.

B. Adult Convictions: On 3/30/92, Ngo was arrested by the San Gabriel Police Department for Possession of a Controlled Substance (three pieces of rock cocaine). On 5/7/92 he was diverted pursuant to Section 1000 of the Penal Code. On 9/22/92, Ngo was arrested by the Olympia Sheriff's Office for Possession of Stolen Property. This case was Subsequently dismissed. Information obtained from CI&I.

C. Personal Factors: Ngo was born in Vietnam on 5/18/73. He has resided in the United States since 1979. In 1991 he graduated from Fullerton High School and subsequently attended Fullerton Community College and Pasadena City College. He completed ten units and his major was business. Ngo was employed as a telemarketer and worked odd jobs. He was employed at his family's liquor store and resided with his parents. Ngo had problems with controlled substances or alcohol. He was a member of the "Fullerton Boyz," and after his move to Los Angeles he became affiliated with the "Tiger Mafia."

III. POSTCONVICTION FACTORS:

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LIFE PRISONER EVALUATION REPORT
 INITIAL PAROLE CONSIDERATION HEARING
 APRIL 2002 CALENDAR

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- A. Special Accommodations/Disability: None.
- B. Custody History: Ngo was received by R.J. Donovan Correctional Facility for Initial Processing on 2/1/84. He was transferred to Centinela State Prison on 3/17/94 and placed on Close A Custody. On 5/16/95 he was transferred to California State Prison at Lancaster and placed on Medium A Custody. On 12/16/98 he was transferred to the Correctional Training Facility and continued Medium A Custody. Ngo has been assigned to the Yard Crew and various positions as a clerk. He has completed courses in Tuberculosis, AIDS and Hepatitis. Ngo successfully completed Vocational Auto Upholstery, Automotive Refinishing and Vocational Auto Paint.
- C. Work, Education, Vocation, Therapy & Self-Help Activities: Ngo has completed self-help courses in Salesmanship and Parenting and has been a participating member of Alcoholics Anonymous and Narcotics Anonymous.
- D. Disciplinary History: Ngo has received only two CDC 128A's during his incarceration. See Disciplinary Sheet for details.

IV. FUTURE PLANS:

- A. Residence: Ngo plans to reside with his mother, Phuong Hungk Ngo, at 709 Triana Street, Monterey Park, California, (714) 827-7832.
- B. Employment: Ngo plans to work at the family liquor store which is owned by his sister, Julie Seeto, in Anaheim. His uncle, Calvin Ung, owns a restaurant in Anaheim and has offered Ngo a job as a cook.

V. USINS STATUS: Ngo is a United States Citizen.

VI. SUMMARY:

- A. Considering the commitment offense, minimal prior arrest record and prison adjustment, the writer believes Ngo would probably pose a moderate to low degree of threat to the public at this time, if released from prison. This opinion is based on Ngo being immature at the time of the crime and easily influenced by his peers. The crime was episodic in nature. Ngo has a limited criminal history and has not shown a pattern of violence in custody.
- B. Prior to release Ngo could benefit from remaining disciplinary free and completing an additional vocational program.

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LIFE PRISONER EVALUATION REPORT
INITIAL PAROLE CONSIDERATION HEARING
APRIL 2002 CALENDAR

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- C. This report is based upon a one hour interview, incidental contact in the housing unit and a thorough review of the Central File.
- D. Ngo reviewed his Central File on 1/18/02.

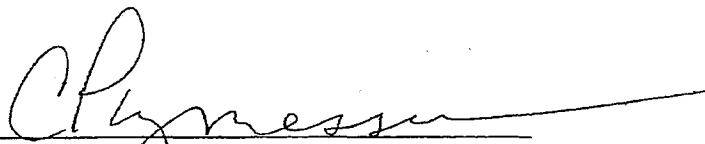
236

LIFE PRISONER EVALUATION REPORT
INITIAL PAROLE CONSIDERATION HEARING
APRIL 2002 CALENDAR

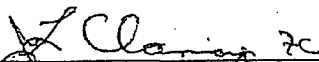
5




M. Rubio
Correctional Counselor I



C. Plymesser
Correctional Counselor II



J.L. Clancy
Facility Captain



D.S. Levorse
Classification and Parole Representative

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EXHIBIT I

COPY TO I/M

VIA

CC-1 ON

1-8-97'

(date)

PSYCHOLOGICAL EVALUATION FOR
THE BOARD OF PRISON TERMS
MARCH 1997 CALENDAR
CALIFORNIA STATE PRISON-LOS ANGELES COUNTY

NAME: NGO, SIEU
CDC#: J-07024
DATE OF EVALUATION: December 27, 1996

IDENTIFICATION/FORENSIC DATA:

This is the psychological report for the "Documentation #1 Hearing" scheduled for March of 1997 for Sieu Ngo; CDC# J-07024. On October 21, 1993; Mr. Ngo was convicted by jury trial of P.C. 187A murder in the second degree, reduced from first degree in exchange for agreeing to a 15-to-life sentence and no appeal, with enhancement P.C. 12022 vicariously armed with a gun. He was sentenced to 16-years-to-life. The crime occurred September 18, 1992. Mr. Ngo and four co-defendants beat and shot in the back a fifteen year old member of an enemy gang. Mr. Ngo stated that he agreed with the records of the crime, the verdict, and the sentencing. However, he did state at the time of the trial that no one intended to kill the victim only to beat him up.

Past prior offenses include a two year drug diversion, for possession of Cocaine and several other arrests which did not result in convictions. There have been no prior psychological Board of Prison Terms reports.

BACKGROUND INFORMATION:

The evaluation consisted of a single 45-minute interview, for the purposes of this report. This was after review of the Central File and medical records on 12/27/96. There are no records of past psychological/psychiatric treatment.

Mr. Ngo has received no disciplinary actions. Not a single 115 or 128A. Mr. Ngo completed two years of college prior to coming to prison. During incarceration, his vocational training in auto upholstery earned him good comments from his instructors such as, "doing well - shows enthusiasm". He received several certificates of completion. The last one in October of 1996. Mr. Ngo has attended Narcotic's

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PSYCHOLOGICAL EVALUATION FOR
THE BOARD OF PRISON TERMS
MARCH 1997 CALENDAR

DATE OF EVALUATION: December 27, 1996

PAGE 2

Anonymous and received a one year perfect attendance certificate in November of 1996. He has not been employed in prison. Prior to incarceration, he was employed in sells, telemarketing, and as a cook while a student in junior college.

The historical information supplied by the inmate agreed with the records and there were no distortions.

PRESENT CONDITION:

His Central File contains no records of past mental illness; however, the inmate reported a history of depression, with three suicide attempts during his adolescence. He has records of hospitalization for the suicide attempts and his family will be obtaining these records for entry in his Central File. He has numerous cuts and slices on his arm from suicide attempts. Mr. Ngo describes his level of insight at the time of the crime as very limited, naive, showing poor judgment in his friends and activities. He had decided to disengage from these friends and moved away one year prior to the crime, which occurred while he was visiting. Now, he reports he is able to think before acting; he has changed his attitude to one of valuing service to his fellow man such as mentoring and tutoring. The remorse he expresses is sincere. He shows much shame and self-incrimination for the crime. In hindsight, he sees that he perhaps could have stopped the incident and now has great empathy and remorse for the family of the victim.

MENTAL STATUS AND DIAGNOSIS:

Mental status indicators are clear in all areas: mood and affect, behavior, speech, thought content and processes, and cognition.

AXIS I: V71.09 NO DIAGNOSIS OR CONDITION.

AXIS II: V71.09 NO DIAGNOSIS.

AXIS III: NONE.

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PSYCHOLOGICAL EVALUATION FOR
THE BOARD OF PRISON TERMS
MARCH 1997 CALENDAR
DATE OF EVALUATION: December 27, 1996
PAGE 3

AXIS IV: PSYCHOSOCIAL STRESSORS: INCARCERATION.

AXIS V: GLOBAL ASSESSMENT OF FUNCTIONING = 75.

CONCLUSIONS AND RECOMMENDATIONS:

Mr. Ngo's history of depression and suicide attempts may have contributed to his state of mind and poor judgment during the time of the crime. There are no records of any mental health treatment during incarceration and Mr. Ngo is no longer depressed. He has increased his chances for successful re-entry into society by setting educational goals in academic subjects and a good start in attendance in Narcotic's Anonymous. He plans to start Alcoholic's Anonymous in 1997. He also has excellent family support who can provide him a place to live, employment, and are willing to pay for correspondence courses for him during incarceration. This inmate is of above average intelligence and has excellent potential in intellectual endeavors. He is no longer depressed and is now able to recognize the symptoms of depression and would seek help as needed. Also in his favor is the absence of any indications of violence other than the crime.

To continue positive programming, Mr. Ngo needs to regularly attend Narcotic's Anonymous and Alcoholic's Anonymous, remain disciplinary-free, and pursue higher education through correspondence courses. By reducing his points, he can possibly transfer to other institutions that facilitate correspondence studies and provide other self-help group opportunities. Psychotherapy is not part of his program unless he has a recurrence of his depression.

C. Schroeder Ph.D.
C. SCHROEDER, Ph.D.
Staff Psychologist

11/6/97
Date

Orig: C-File
cc: Medical Records Psych. Inmate

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DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

I am over eighteen (18) years of age, and not a party to the within cause; my business address is 523 West Sixth Street, Suite 1109, Los Angeles, CA. 90014. That on August 15, 2006, I served a copy of the within:

**EXHIBITS IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS**

On the interested parties by placing them in an envelope (or envelopes) addressed respectively as follows:

Office of the Attorney General
P.O. Box 85266
San Diego, CA 92186-5266

Mr. Sieu Phong Ngo
J-07024/ B-wing 319-up
CTF- Soledad
P.O. Box 689
Soledad, CA 93960-0689

Office of the District Attorney
700 Civic Center Drive West
Santa Ana, CA 92701

Each said envelope was then, on August 15, 2006, sealed and deposited in the United States mail at Los Angeles, California, the county in which I maintain my office, with postage fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on August 15, 2006, at Los Angeles, California.


SHANNON CALLAHAN

2:12

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

I am over eighteen (18) years of age, and not a party to the within cause; my business address is 523 West Sixth Street, Suite 1109, Los Angeles, CA. 90014. That on October 17, 2006, I served a copy of the within:

**EXHIBITS IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS**

On the interested parties by placing them in an envelope (or envelopes) addressed respectively as follows:

Office of the Attorney General
P.O. Box 85266
San Diego, CA 92186-5266

Office of the District Attorney
700 Civic Center Drive West
Santa Ana, CA 92701

Clerk of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92702-1944
For delivery to the Honorable Kazuharu
Makino

Mr. Sieu Phong Ngo
J-07024/ B-wing 319-up
CTF- Soledad
P.O. Box 689
Soledad, CA 93960-0689

Each said envelope was then, on October 17, 2006, sealed and deposited in the United States mail at Los Angeles, California, the county in which I maintain my office, with postage fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on October 17, 2006, at Los Angeles, California.


SHANNON CALLAHAN